Islands Trust Council
Decision and Information Items Agenda

Date: Wednesday, June 18 - Thursday, June 19, 2014

Location: Saturna Recreation and Cultural Centre

104 Harris Road, Saturna Island, BC

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That the Islands Trust Council approve the Local Planning Committee Work Program Report.

2.3	Gabriola Island Local Trust Area Development Approval Information Bylaw No. 150 - Decision	25 - 41

1. That Trust Council Bylaw No. 150, cited as 'Gabriola Island Local Trust Area Development Approval Information Bylaw No. 150, 2013'. be read a First Time.
2. That Trust Council Bylaw No. 150, cited as 'Gabriola Island Local Trust Area Development Approval Information Bylaw No. 150, 2013'. be read a Second Time.
3. That Trust Council Bylaw No. 150, cited as 'Gabriola Island Local Trust Area Development Approval Information Bylaw No. 150, 2013'. be read a Third Time.

2.4	Riparian Areas Regulation Implementation - Briefing	42 - 45
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3.1	Chief Administrative Officer's Report	78 - 79

3.2 Executive Committee Work Program Report - Decision 80 - 81

That the Islands Trust Council approve the Executive Committee Work Program Report.

3.3 Recommendations Regarding Trust Council Input into Future CAO Hiring Process - Decision 82 - 91

1. That the Islands Trust Council approve the proposed amendments to Policy 2.4.i – Executive Committee Terms of Reference as illustrated in the draft dated June 18, 2014.
2. That the Islands Trust Council request the Executive Committee to make amendments to its Policy 8.4.1 – Chief Administrative Officer Contingency Succession Plan, to reflect the amendments made to Trust Council Policy 2.4.i.

3.4 Amendments to Policy 4.1.v - Local Trust Committee Resolution Without Meeting - Decision 92 - 97

That Islands Trust Council endorse the process outlined in Attachment 1 to this Request for Decision, for a comprehensive review of the policy and procedures regarding Local Trust Committee Resolutions Without Meeting and that a draft replacement policy be brought to Trust Council in September 2014 for consideration of adoption.

3.5 Amendments to Islands Trust Council Election Procedures Bylaw - Decision 98 - 109

1. That Islands Trust Council Bylaw No. 157, cited as 'Islands Trust Election Procedures Bylaw, 2008, Amendment Bylaw No. 1, 2014' be read a first time.
2. That Islands Trust Council Bylaw No. 157, cited as 'Islands Trust Election Procedures Bylaw, 2008, Amendment Bylaw No. 1, 2014' be read a second time.
3. That Islands Trust Council Bylaw No. 157, cited as 'Islands Trust Election Procedures Bylaw, 2008, Amendment Bylaw No. 1, 2014' be read a third time.

3.6 Mail Ballot Voting - Briefing 110 - 116

3.7 Jurisdictional Considerations regarding Fishery Aquaculture on Crown Marine Lands in the Islands Trust Area - Briefing 117 - 173

3.8 March 2014 Delegation, Cameron Thorn - Concerns Raised - Briefing 174 - 348

3.9 Provincial Analysis Impact of Potential Salt Spring Island Incorporation - Briefing 349 - 355

3.10 Trust Council Plan for Continuous Learning 2011-2014 356 - 358

3.11 Islands Trust Council 2011-2014 Strategic Plan - Status Update 359 - 374

4. ORGANIZATIONAL/FINANCE

4.1 Director of Administrative Services Report 375 - 376

4.2 Financial Planning Committee Work Program Report - Decision 377 - 377

That the Islands Trust Council approve the Financial Planning Committee Work Program Report.

4.3 March 31, 2014 Audited Financial Statement and Report - Decision 378 - 398

That Islands Trust Council approve the audited financial statements of the Islands Trust including the Statement of Financial Position, the Statement of Operations, the Statement of Changes in Net Financial Assets and the Statement of Cash Flows, for the year ended March 31, 2014.

4.4 Amendment to Policy 7.2.iii Trustee Travel Guidelines – Decision 399 - 424

1. That the Islands Trust Council replace Policy 7.2.iii Trustee Travel Guidelines dated February 9, 1996 with Policy 7.2.iii Trustee Travel Policy and Procedures, dated June 18, 2014.

2. That the Islands Trust Council rescind Islands Trust Council Bylaw No. 29, cited as 'Islands Trust Council Trustee Expenses and Benefits Bylaw, 1995', as amended.

4.5 Amendment to Policy 6.3.i Budget Process Policy – Decision 425 - 434

That the Islands Trust Council adopt amendments to Policy 6.3.i. Budget Process Policy, dated June 18, 2014.

5. TRUST AREA SERVICES

5.1 Director of Trust Area Services Report 435 - 436

5.2 Trust Fund Board Report 437 - 438

5.3 Natural Area Protection Tax Exemption Program NP-NAP-2014.1 - Decision 439 - 443

That the Islands Trust Council request the Secretary issue a Natural Area Protection Tax Exemption Certificate for a portion of the land described as “Lot 23, Section 6, Pender Island, Cowichan District, Plan 1084, Except Part in Plan 19554.” PID 008-045-453, subject to registration of a conservation covenant and completion of a baseline inventory report consistent with the standards developed for NAPTEP.

5.4 Trust Programs Committee Work Program Report - Decision 444 - 444

That the Islands Trust Council approve the Trust Programs Committee Work Program Report.

5.5 2013-2014 Annual Report - Decision 445 - 477

That the Islands Trust Council approve the 2013-2014 Annual Report for submission to the Minister of Community, Sport and Cultural Development.

5.6 Advocacy Costs, Resources and Priorities - Decision 478 - 483

That the Islands Trust Council direct policy staff to focus 60% of their time on Trust Council advocacy until December 2014, with half of that time on marine topics, one quarter on BC Ferries and one quarter on program decision-making frameworks and evaluation.

5.7 BC Ferries Advocacy - Decision 484 - 489

1. That the Islands Trust Council prioritize BC Ferries advocacy with a focus on:

a. BC Ferries' long-range plan (10-30 years);
b. Need for the Province to fund ferry capital costs; and
c. BC Ferries Commissioner's pre-performance term four process.

2. That the Islands Trust Council direct staff to provide a briefing to the incoming Trust Council regarding options for hosting a public forum for coastal communities on integrated marine transportation.

5.8 Legislative Monitoring Report 490 - 509

5.9 2014 Community Stewardship Awards - Briefing 510 - 526

5.10 Coastal Douglas-fir and Associated Ecosystems Conservation Partnership - Briefing 527 - 541

6. CORRESPONDENCE

6.1 David Steen, Gulf Islands Alliance re Climate change 542 - 543

6.2 Graham Brazier, Gulf Islands Alliance re Concerns about local aquaculture zoning 544 - 545

7. SUMMARY/UPDATES

7.1 Trustee Updates

7.1.1 BC Ferries (T. Law)

7.1.2 First Nations

7.1.3 Gulf Islands National Park Reserve Advisory Committee (P. Janszen)

7.1.4 Salt Spring Island Water Protection Authority (G. Grams) 546 - 546

7.1.5 Howe Sound Report (J. Hagedorn) 547 - 547

7.2 Priorities Chart - General Consent 548 - 548

7.3 Proposed September 2014 Trust Council Agenda Program - Information 549 - 549

7.4 Disposition of Delegations and Town Hall Requests - General Consent

8. NEW BUSINESS

9. ADJOURNMENT

Draft – Subject to Council Approval

Minutes of Islands Trust Council Meeting
March 4-6, 2014 – Hornby island, BC

Present:

Executive Committee:	Sheila Malcolmson, Chair (Gabriola) David Graham, Vice Chair (Denman) Ken Hancock, Vice Chair (North Pender) Peter Luckham, Vice Chair (Thetis)
Trustees:	Wolfgang Duntz, Bowen Andrew Stone, Bowen Laura Busheikin, Denman Gisele Rudischer, Gabriola (March 4 and 5) Louise Decario, Galiano Sandy Pottle, Galiano Jan Hagedorn, Gambier Alex Allen, Hornby Tony Law, Hornby Peter Johnston, Lasqueti Susan Ann Morrison, Lasqueti Brian Crumblehulme, Mayne Jeanine Dodds, Mayne Gary Steeves, North Pender (March 4 and 5) George Grams, Salt Spring Peter Grove, Salt Spring Paul Brent, Saturna Pam Janszen, Saturna Mike Jones, South Pender Liz Montague, South Pender Sue French, Thetis
Regrets:	Kate-Louise Stamford, Gambier Gary Steeves, North Pender Island (March 6) Gisele Rudischer, Gabriola (March 6)
Staff:	Linda Adams, Chief Administrative Officer Lisa Gordon, Director, Trust Area Services David Marlor, Director, Local Planning Services Cindy Shelest, Director, Administrative Services Marie Smith, Executive Coordinator (Recorder)

TUESDAY, MARCH 4, 2014

Call to Order

The meeting was called to order at 1:05 pm. Chair Malcolmson acknowledged that the meeting was being held in traditional territory of the Coast Salish First Nations.

Twenty-five trustees were in attendance. Trustee absent: Kate Louise Stamford, Gambier.

Approval of Agenda/Notice of New Items

TC-2014-001
It was MOVED by Trustee Law and SECONDED by Trustee French,
To add 'BC Ferries Performance Review' as a New Business item.

CARRIED

TC-2014-002
It was MOVED by Trustee Rudischer and SECONDED by Trustee Crumblehulme ,
To add 'Federal Communication Tower Consultation Process' as a New Business item.

CARRIED

TC-2014-003
It was MOVED by Trustee Brent and SECONDED by Trustee Janszen,
To add 'Advisory Planning Commission Policy Review' as a New Business item.

CARRIED

TC-2014-004
It was MOVED by Trustee Hagedorn and SECONDED by Trustee Stone,
To add 'Howe Sound Marine Management Plan as a New Business item.

CARRIED

By General Consent, the agenda was approved, as amended.

DECISION AND INFORMATION ITEMS

1. GENERAL

1.1 Resolutions Without Meeting: TC-RWM-2014-001

Provided for information.

1.2 December 2013 Trust Council Meeting Draft Minutes

By General Consent, the December 2013 Trust Council Meeting Minutes were adopted, as amended.

1.3 Trust Council Follow-Up Action List

Provided for information.

2. LOCAL PLANNING

2.1 Director of Local Planning Services Report

Provided for information.

2.2 Local Planning Committee Work Program Report

The top work program priorities of the Local Planning Committee as of March 2014 were:
1) Development of Water Quality and Quantity Tool Kit; 2) Greenshores for Homes; and
3) Renewable Energy Technology in the Trust Area.

TC-2014-005
It was MOVED by Trustee Decario and SECONDED by Trustee Crumblehulme,
That the Islands Trust Council approve the Local Planning Committee Work Program Report.
CARRIED

2.3 Groundwater Quality and Quantity Toolkit

TC-2014-006
It was MOVED by Trustee Decario and SECONDED by Trustee Crumblehulme,
That the Islands Trust Council request staff to finalize the formatting and circulate the Gulf Islands Groundwater Protection – A Regulatory Toolkit, to all Local Trust Committees and planning staff and Bowen Island Municipality so that they are aware of some of the options available for the protection of groundwater.

TC-2014-007
It was MOVED by Trustee Steeves and SECONDED by Trustee Luckham,
To Amend the Motion as follows: That the Islands Trust Council request staff to finalize the formatting and circulate the Gulf Islands Groundwater Protection – A Regulatory Toolkit, to all Local Trust Committees and planning staff and Bowen Island Municipality so that they are aware of some of the options available for the protection of groundwater and that this toolkit be included in the orientation program for the next Trust Council.

On the Amendment **CARRIED**

On Motion as Amended **CARRIED**

2.4 Bylaw Enforcement Report

Staff highlighted the current status of bylaw enforcement investigations in the Trust Area.

2.5 Local Planning Services Three Year Work Plan

Provided for information.

2.6 Ministry of Transportation and Infrastructure and Islands Trust Letter of Agreement

This briefing was provided for information.

2.7 Integrated Shoreline/Watershed Protection Approach

This briefing was provided for information.

3. EXECUTIVE

3.1 Chief Administrative Officer's Report

Provided for information.

3.2 Executive Committee Work Program Report

The top work program priorities as of February 2014 were: 1) Governance, Policy, Strategic Planning, Trust Council; 2) Communications, Advocacy, Policy Statement, Interagency and Public Relations; and 3) Organizational Improvements.

The issue of the ability to hold Trust Council meetings electronically was raised.

TC-2014-008
It was MOVED by Trustee Brent and SECONDED by Trustee Crumblehulme,
That the Islands Trust Council Executive Committee explore the ability for Trust Council to hold electronic meetings and provide a recommendation to Council.

Staff noted that work has been previously done on this issue and that these briefings could be circulated for review prior to deciding on exploring further.

TC-2014-009
It was MOVED by Trustee Crumblehulme and SECONDED by Trustee Law,
To Table the Motion.

In Favour – 22
Opposed – 3
(Malcolmson-Gabriola; Steeves-North Pender; Brent-Saturna)
CARRIED

TC-2014-010
It was MOVED by Trustee Luckham and SECONDED by Trustee Law,
That the Islands Trust Council request staff circulate to trustees any reports and policies to Trust Council regarding electronic meetings.

In Favour – 24
Opposed – 1
(Steeves-North Pender)
CARRIED

TC-2014-011
It was MOVED by Trustee Graham andd SECONDED by Trustee French,
That the Islands Trust Council approve the Executive Committee Work Program Report.
CARRIED

3.3 Trust Council Plan for Continuous Learning 2011-2014

TC-2014-012
It was MOVED by Trustee Luckham and SECONDED by Trustee Morrison,
That the Islands Trust Council approve adding 'Public Consultation and Polling' to the Continuous Learning Plan as a potential topic for a future Council session.

CARRIED

3.4 Islands Trust Council 2011-2014 Strategic Plan – Status Update

Provided for information.

3.5 Select Committee on Trust Council Input into Future CAO Appointments

Council members reviewed the briefing provided by the Select Committee outlining options related to Trust Council providing input into the appointment of future CAOs.

This item will be discussed further at a later time on the agenda.

3.6 Election Administration for 2014

This briefing was provided for information. Staff noted that the bylaw may have to be amended pending decision from the province following announcement to a four year term.

4. ADMINISTRATIVE SERVICES

Deferred to later in the meeting.

5. TRUST AREA SERVICES

5.1 Director of Trust Area Services Report

Provided for information.

5.2 Trust Fund Board Report

Trustee Tony Law, Chair of the Trust Fund Board, highlighted the Board's accomplishments as of February 2014 in the areas of Strategic Planning/Administration, Covenant and Property Acquisition, Property and Covenant Management, Communications and Fundraising. A written report was provided for information.

5.3 Trust Programs Committee Work Program Report

The top work program priorities of the Trust Programs Committee as of February 2014 were: 1) Community Stewardship Awards; 2) BC Ferries Advocacy Program; and 3) Indicator Program.

TC-2014-013
It was MOVED by Trustee Brent and SECONDED by Trustee Grams,
That the Islands Trust Council approve the Trust Programs Committee Work Program Report.

CARRIED

5.4 2014 Community Stewardship Awards

This briefing was provided for information.

5.5 Advocacy Costs and Resources

TC-2014-014
It was MOVED by Trustee Hancock and SECONDED by Trustee Crumblehulme,
That the Islands Trust Council remove from its Follow-Up Action List the task "Advocacy strategy re marine and coastal issues".

Discussion ensued with many trustees voicing opposition to the motion, stating it gave the impression that Council is not committed to marine issues. The Council Strategic Plan and Policy Statement both show commitment to marine advocacy.

DEFEATED

2014/15 BUDGET SESSION

Director of Administrative Services Cindy Shelest provided an overview of the Financial Planning Committee's draft recommendations for the 2014/15 budget, including discretionary and non-discretionary revenue and expenses, a review of the proposed OCP/LUB budget, and a preliminary proposal for a 0% property tax increase.

TC-2014-015
It was MOVED by Trustee Hagedorn and SECONDED by Trustee Duntz,
That the Islands Trust Council add $5,000 for forage fish mapping to the Gambier Island Local Trust Committee 2014/15 projects budget.

TC-2014-016
It was MOVED by Trustee Hancock and SECONDED by Trustee Luckham,
That the Islands Trust Council add $5,000 for forage fish mapping to the Gambier Island Local Trust committee 2014/15 projects budget and that it be funded from surplus.

On the Amendment **CARRIED**

On Motion as Amended **CARRIED**

TC-2014-017
It was MOVED by Trustee Stone and SECONDED by Trustee Duntz,
That the Islands Trust council add $5,000 for forage fish mapping to the Bowen Island Municipality 2014/15 projects budget and that it be funded from surplus.

Staff noted that these funds would go through the Trust Area Services budget.

CARRIED

4. ORGANIZATIONAL/FINANCE

4.1 Director of Administrative Services Report

Provided for information.

4.2 Financial Planning Committee Work Program Report – Decision

The top work program priorities for the Financial Planning Committee as of February 2014 were: 1) Finalize 2014/15 Budget; and 2) Conduct 2013/14 Year End and Audit

TC-2014-018
It was MOVED by Trustee Steeves and SECONDED by Trustee Hancock,
That the Islands Trust Council approve the Financial Planning Committee Work Program Report.

CARRIED

4.3 December 31, 2013 Quarterly Statement

TC-2014-019
It was MOVED by Trustee Steeves and SECONDED by Trustee Hancock,
That the Islands Trust Council approve the December 31, 2013 quarterly financial report as presented.

CARRIED

4.4 Financial Forecast for March 31, 2014 Year End

Provided for information.

4.5 2014/15 Financial Plan Bylaw

This item was deferred to March 5.

4.6 Revenue Anticipation Borrowing Bylaw

TC-2014-020
It was MOVED by Trustee Steeves and SECONDED by Trustee Johnston,
That Islands Trust Council Bylaw 156, cited as the "Revenue Anticipation Borrowing Bylaw 2014/15" be Read a First Time.

CARRIED

TC-2014-021
It was MOVED by Trustee Steeves and SECONDED by Trustee Allen,
That Islands Trust Council Bylaw 156, cited as the "Revenue Anticipation Borrowing Bylaw 2014/15" be Read a Second Time.

CARRIED

TC-2014-022
It was MOVED by Trustee Steeves and SECONDED by Trustee Crumblehulme,
That Islands Trust Council Bylaw 156, cited as the "Revenue Anticipation Borrowing Bylaw 2014/15" be Read a Third Time.

CARRIED

TC-2014-023
It was MOVED by Trustee Steeves and SECONDED by Trustee Busheikin,
That Islands Trust Council Bylaw 156, cited as the 'Revenue Anticipation Borrowing Bylaw 2014/15", be forwarded to the Minister of Community, Sport and Cultural Development for approval consideration.

CARRIED

4.7 Revisions to Purchasing Procedure Policy 6.5.iii

TC-2014-024
It was MOVED by Trustee Steeves and SECONDED by Trustee French,
That the Islands Trust Council approve the revisions to Purchasing Procedure Policy 6.5.iii and remove Local Trust Committee Local Expense Account Policy 4.1.viii from the Islands Trust Council's Policy Manual.

CARRIED

The meeting recessed at 5:20 pm.

WEDNESDAY, MARCH 5, 2014

The meeting reconvened at 8:35 am. Twenty-five trustees were in attendance.
Trustee absent: Kate Louise Stamford, Gambier.

DECISION AND INFORMATION ITEMS

4.8 Salt Spring Island Request – Special Property Tax Requisition

TC-2014-025
It was MOVED by Trustee Grams and SECONDED by Trustee Grove,
That the Islands Trust Council include a special property tax requisition for the Salt Spring Island Local Trust Area in the amount of $110,000 in its 2014/15 annual budget, to fund additional operations of the Salt Spring Island Local Trust Committee consistent with Trust Council's delegated powers.

In Favour - 24
Opposed – 1
(Jones-South Pender)
CARRIED

5.5 Advocacy Costs and Resources – continued

TC-2014-026
It was MOVED by Trustee Hancock and SECONDED by Trustee Crumblehulme,
That the Islands Trust Council direct the Executive Committee to review financial, staff and trustee resources available for all advocacy activities, and provide the results of the review with recommendations to Trust Council.

CARRIED

TC-2014-027
It was MOVED by Trustee Law and SECONDED by Trustee Dodds,
To Amend the Motion as follows: That the Islands Trust Council direct the Executive Committee to review financial, staff and trustee resources available for all advocacy activities recognizing Council's focus on marine issues, and provide the results of the review with recommendations to Trust Council.

On the Amendment **CARRIED**

On the Motion as Amended In Favour - 24
Opposed – 1
(Jones-South Pender)
CARRIED

TC-2014-028
It was MOVED by Trustee Hancock and SECONDED by Trustee Crumblehulme,
That the Islands Trust Council direct the Executive Committee to oversee development of a draft framework for assessing advocacy campaign priorities and for selecting advocacy methods.

In Favour - 24
Opposed – 1
(Steeves-North Pender)
CARRIED

6. CORRESPONDENCE

6.1 Letters re Support for Updated Antenna Protocol for the Islands Trust Area

Provided for information. This issue will be addressed later in the agenda under New Business.

7. SUMMARY/UPDATES

7.1 Trustee Updates

7.1.1 BC Ferries (T. Law)

Trustee Law, Co-Chair of the Ferry Advisory Committee Chairs, and various trustees gave verbal updates on local Ferry Advisory Committees.

7.1.2 First Nations

No update.

7.1.3 Gulf Islands National Park Reserve Advisory Committee (P. Janszen)

Trustee Janszen reported that the Committee has held no meetings to report on.

7.1.4 Salt Spring Island Watershed Protection Authority

Written report provided for information.

7.2 Priorities Chart

By General Consent, the Islands Trust Council approved the Priorities Chart, as presented.

7.3 Proposed June 2014 Trust Council Agenda Program

The draft agenda program for the next meeting of the Islands Trust Council, scheduled for June 18-19, 2014 on Saturna Island was provided for information.

7.4 Disposition of Delegations and Town Hall Requests – General Consent

By General Consent, the Islands Trust Council requested the Chair to write to the delegation participants and to thank them for their submissions.

8. NEW BUSINESS

8.1 BC Ferries Performance Review

TC-2014-029
It was MOVED by Trustee Law and SECONDED by Trustee French,
That the Islands Trust Council request the Chair to write to the BC Ferry Commissioner asking that he conduct a performance review of BC Ferries with respect to cost effective management including cost allocations to the non-major routes.

CARRIED

8.2 Federal Communication Tower Consultation Process

TC-2014-030
It was MOVED by Trustee Rudischer and SECONDED by Trustee Morrison,
That the Islands Trust Council request staff to advise whether Trust Council actions are necessary to implement the new federal communication tower consultation process once the Industry Canada procedure is in effect.

CARRIED

8.3 Advisory Planning Commission Policy Review

TC-2014-031
It was MOVED by Trustee Brent and SECONDED by Trustee Crumblehulme,
That the Islands Trust Council request the Local Planning Committee to review the Advisory Planning Commission policy and recommend amendments and a model APC bylaw for Trust Council consideration at its June 2014 meeting.

TC-2014-032
It was MOVED by Trustee Decario and SECONDED by Trustee Luckham,
To Amend the Motion as follows: That the Islands Trust Council request the Local Planning Committee to review the Advisory Planning Commission policy and recommend amendments and a model APC bylaw for Trust Council consideration ~~at it June 2014 meeting~~.

On the Amendment — In Favour - 19
Opposed – 6
(Johnston-Lasqueti; Crumblehulme-Mayne; Dodds-Mayne; Grams-Salt Spring; Brent-Saturna; Janszen-Saturna)
CARRIED

On Motion as Amended — **CARRIED**

8.4 Howe Sound Marine Management Plan

Trustee Hagedorn and Trustee Stone, as Metro Vancouver RD Director, provided a verbal update on the status of the Howe Sound Marine Management Plan and the Howe Sound Forum.

COMMUNITY PRESENTATION

Gerald Hodge, famed author on community planning and resident of Hornby Island gave a presentation on "Is your Community Senior Smart?" and what communities can do to prepare for the surge of aging baby boomers.

DELEGATIONS AND TOWN HALL

Denman Island Forage Fish Group

Dorrance Woodward with the Denman Island Forage Fish Group provided a presentation about the impacts of industrial shellfish aquaculture, in particular the expansion of geoduck aquaculture within the Strait of Georgia.

2. Cameron Thorn

Cameron Thorn from South Pender Island addressed trustees about policy recommendations for advisory bodies, in particular advisory planning commissions, and conflict of interest.

3. Association for Denman Island Marine Stewards

A representative from the Association for Denman Island Marine Stewards addressed trustees about its association's concerns with the regulation of aquaculture and the impacts of industrial shellfish aquaculture, as it relates to the expansion of geoduck aquaculture in the Trust Area.

4. Gulf Islands Alliance

On behalf of the Gulf Islands Alliance, Graham Brazier from Denman Island spoke to trustees, encouraging Council to focus on strengthening its relationships with Trust-Area First Nations.

Notice of New Item

TC-2014-033
It was MOVED by Trustee Johnston and SECONDED by Trustee Luckham,
To add "Briefing Request re Followup to Cameron Thorn Delegation' as a New Business Item.

In Favour – 23
Opposed – 2
(Hancock-North Pender; Steeves-North Pender)
CARRIED

BC TREATY NEGOTIATORS SESSION

Representatives from the Ministry of Aboriginal Relations and Reconciliation provided trustees with an understanding of the BC Treaty process and an update about negotiations relevant to the Islands Trust Area.

TC-2014-034
It was MOVED by Trustee Luckham and SECONDED by Trustee Stone,
That the Islands Trust Council meeting be closed to the public subject to Sections 90(2)(b), (g) and (i) of the Community Charter in order to consider matters related to the consideration of information received and held in confidence relating to negotiations between the Island Trust Council and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party in order to distribute documents related to litigation affecting the Islands Trust, and receipt of advice that is subject to solicitor-client privilege; and that staff and Comox Valley Regional Director Bruce Joliffe be invited to attend the meeting.

CARRIED

The meeting closed to the public at 2:40 pm.
The meeting reopened to the public at 3:20 pm.

2014/15 BUDGET SESSION

Financial Planning Committee Chair Gary Steeves introduced the proposed 2013-14 budget of $7.1 million, which would result in no property tax increase over the previous year.

TC-2014-035
It was MOVED by Trustee Steeves and SECONDED by Trustee Stone,
That Islands Trust Council Bylaw 155, cited as the "Financial Plan Bylaw, 2014/2015" be Read a First Time.

CARRIED

TC-2014-036
It was MOVED by Trustee Steeves and SECONDED by Trustee Busheikin,
That Islands Trust Council Bylaw 155, cited as the "Financial Plan Bylaw, 2014/2015" be Read a Second Time.

CARRIED

TC-2014-037
It was MOVED by Trustee Steeves and SECONDED by Trustee Allen,
That Islands Trust Council Bylaw 155, cited as the "Financial Plan Bylaw, 2014/2015" be Read a Third Time.

CARRIED

TC-2014-038
It was MOVED by Trustee Steeves and SECONDED by Trustee French,
That Islands Trust Council Bylaw 155, cited as the "Financial Plan Bylaw, 2014/15" be forwarded to the Minister of Community, Sport and Cultural Development for approval consideration.

CARRIED

DECISION AND INFORMATION ITEMS - continued

8.5 Request for Information re: Cameron Thorn Delegation

TC-2014-039
It was MOVED by Trustee Montague and SECONDED by Trustee Brent,
That the Islands Trust Council request a full briefing from staff for the June 2014 meeting about issues raised by Cameron Thorn in his delegation.

Staff noted that it was a complicated issue and would require a complex briefing that could require a considerable amount of the Chief Administrative Officer's time to prepare. Some of the work already asked for on the Advisory Planning Commission Policy and model bylaw will address some of the concerns raised.

In Favour –21
Opposed - 4
Busheikin-Denman; Law-Hornby; Hancock-North Pender; Steeves-North Pender
CARRIED

3.5 Select Committee on Trust Council Input into Future CAO Appointments

TC-2014-040
It was MOVED by Trustee Law and SECONDED by Trustee French,
That the Islands Trust Council request the Executive Committee to prepare draft amendments to Policy 2.4.i and if required Trust Council Bylaw No. 3, to require Trust Council consultation in advance of CAO recruitment and selection process and develop Terms of Reference to specify the format for the consultation; and that the Select Committee on Trust Council Input into Future CAO Appointments be disbanded.

Some committee members expressed opposition to the motion, wanting the CAO Selection Committee to provide a recommendation to Council in June.

In Favour - 14
Opposed – 11
(Stone-Bowen; Busheikin-Denman; Graham-Denman; Crumblehulme-Mayne; Dodds-Mayne; Grams-Salt Spring; Grove-Salt Spring; Brent-Saturna; Janszen-Saturna; Montague-South Pender; French-Thetis)
CARRIED

CLOSED SESSION

TC-2014-041
It was MOVED by Trustee Graham and SECONDED by Trustee Luckham,
That the Islands Trust Council meeting be closed to the public subject to Sections 90(1)(g) and (i) of the Community Charter in order to distribute documents related to litigation affecting the Islands Trust, and receipt of advice that is subject to solicitor-client privilege; and staff be invited to attend the meeting.

CARRIED

The meeting closed to the public at 5:10 pm and reopened at 5:12 pm.

The meeting recessed at 5:13 pm.

Thursday March 6, 2014

The meeting reconvened at 8:35 am. Twenty-three trustees were in attendance. Trustees absent: Kate Louise Stamford, Gambier, Gisele Rudischer, Gabriola and Gary Steeves, North Pender.

TC-2014-042
It was MOVED by Trustee Luckham and SECONDED by Trustee Hancock,
That the Islands Trust Council meeting be closed to the public subject to Sections 90(1)(b), (c),(g) and (i) of the Community Charter in order to consider matters related to:

- labour relations and other employee relations,
- litigation affecting the Islands Trust, and
- receipt of advice that is subject to solicitor-client privilege;

and that CAO Linda Adams be invited to attend the entire meeting, and that Islands Trust staff be invited to attend Parts 2 and 3 of the meeting.

CARRIED

The meeting closed to the public at 8:36 a.m.

The meeting reopened to the public at 10:15 a.m.

9. ADJOURNMENT

TC-2014-043
It was MOVED by Trustee Graham and SECONDED by Trustee Hancock,
To adjourn the meeting.

CARRIED

The meeting adjourned at 10:17 am.

Next meeting: June 18-19, 2014, Saturna Island, BC.

Sheila Malcolmson, Chair, Islands Trust Council

Marie Smith, Executive Coordinator & Recorder

Islands Trust Council
Follow up Action List

Updated: June 4/14

Codes

TC	Trust Council	**TFB**	Trust Fund Board
EC	Executive Committee	**LTC**	Local Trust Committees
FPC	Financial Planning Committee	**LPS**	Local Planning Services Unit
TPC	Trust Programs Committee	( )	Staff Member Lead for Action Required
LPC	Local Planning Committee		

LA–Linda Adams; LG–Lisa Gordon; DM–David Marlor; CS-Cindy Shelest; CF–Clare Frater; KN-Kris Nicholls; MS–Marie Smith; JE–Jennifer Eliason; CT-Carmen Thiel; JC – Jas Chonk

MEETING/Item * Next TC Agenda ▲ to Bowen Island Municipality	Action By/To	Target/ Status
Previous Meetings		
Riparian Areas Regulation (June 2010)		
* Status report to Council until completed	LPC (DM) to TC	Ongoing
Food Security (Sept 2010)		
Review food security topics in existing protocols and in protocol devt process	(LA)	2014
NAPTEP Certificates - Issue subject to survey, covenant and baseline report	(LG/JE)	
- **SSI-NAP 2012.1**		Expired
- **HO-NAP 2011.3**		Pending
- **SS-NAP 2013.1**		Pending
Development Approval Information Bylaw (March 2013)		
* Refer to LPC to prepare draft amendments to Policy 2.1.viii	LPC (DM/KN) to TC	Done
Legislative Monitoring Chart (June 2013)		
Place on EC agenda for discussion re communications/circulation	EC (LG/MS)	Done
Advocacy re shellfish aquaculture (Dec 2013)		
Reflect priority in EC work program materials	LG(CF)	Done
Advocacy strategy re marine and coastal issues		
* Develop recommendations re resources/costs re marine and coastal protection	LG(CF) to TC	(on agenda)
March 2014 Meeting		
December 2013 minutes		
Amend as discussed	MS	Done
Groundwater Quality and Quantity Toolkit		
Format and circulate toolkit to LTCs, BIM and planning staff	DM	Done
Include in TC orientation materials for 2015-2019 Council	DM to TC	Nov
Electronic Meetings		
Circulate briefings and other information re electronic meetings to trustees	LA/CT	2014
Continuous Learning Plan		
Add 'Public Consultation and Polling' as a future session topic	LA	Done

Bylaw 156 – Revenue Anticipation Bylaw		
Forward to Minister of CSCD for approval	CS	Done
Purchasing Procedure Policy 6.5.iii		
Circulate and post amended Policy 6.5.iii	CS	Done
Remove Policy 4.1.viii – from manual and website	CS/JC	Done
Advise LPS staff of policy changes	DM	Done
Advocacy Costs and Resources		
Review resources for advocacy activities	LG/CF	(on agenda)
Develop draft framework for assessing campaign priorities and methods	LG/CF	Sept
BC Ferries Performance Review		
Draft Chair letter to BC Ferries Commissioner to request performance review	LG/CF	Done
Communications Towers Process		
Advise whether TC actions are necessary	LG/DM	Pending
APC Conflict of Interest		
Refer to the Local Planning Committee for recommendations on amendments to the APC policy and re a model APC bylaw	DM/CT	Done
2014/15 Budget Bylaw 155		
Refer to minister for approval	CS	Done
Prepare news release	LG	Done
Briefing re Concerns raised in Thorne Delegation		
Prepare briefing	LA(wDM)	(on agenda)
CAO recruitment process		
Propose amendments to policy and bylaw re CAO recruitment process	LA	(on agenda)
Follow-up Letters		
Acknowledge Delegates and Guests	(LG)	Done
Next Trust Council		
Dec 2013 Council minutes to website	(MS)	Done
Follow Up Action List to Trustees and staff	(MS)	Done
Mar 2014 Council meeting decision highlights to website	EC (MS)	Done
News Release and Agenda for Jun 2014 Council meeting	EC (MS)	Done
Invitations – Area MLA, CRD Directors, former trustees	(MS)	Done
Post notice on community bulletin boards (on island of meeting only)	(MS)	Done
Agenda Package - Review/Distribution to Trustees	EC (MS)	Done

DIRECTOR OF LOCAL PLANNING SERVICES
2014-15 FIRST QUARTER REPORT

Date: May 2014

ACTIVITIES COMPLETED SINCE LAST REPORT	PLANNED FOR NEXT QUARTER
1. Islands Trust Executive Committee (and Islands Trust Council)	
• Attended and reported to Executive Committee meetings • Monitored and updated Executive Committee Work Program • Attended March Trust Council	• Attended and reported to Executive Committee meetings • Monitor and update Executive Committee Work Program • Attend June Trust Council
2. Local Planning Committee	
• Continued to develop incentives, and pilot project for Green Shores for Homes in collaboration with Thetis LTC • Green Shores for Homes – continued to sit on project steering committee. Canvass LTCs for interest in piloting Green Shores for Homes.	• Continue to develop incentives, and pilot project for Green Shores for Homes in collaboration with Thetis LTC • Begin work on renewable energy technologies FAQ – micro-hydro on the work program. • Green Shores for Homes – continue to sit on project steering committee. • APC policy and model bylaw – to August LPC meeting for consideration of undertaking work.
1. Management of the Local Planning Services (LPS) Unit	
• Held monthly meetings with Regional Planning Managers (RPMs) and Coordinators • Worked with RPMs and Director of Administrative Services to manage LPS work program budgets • Worked with RPMs to complete LTC work programs budgeted for 2013/14 fiscal year • Worked with regional planning managers to continue implementation of administrative services new job profiles • Provide support to RPMs and coordinators as necessary • Professional development day in May 2014 – Bowen Island Planner invited but unable to attend, Ministry of Community, Sport and Cultural Development (MCSCD) staff attended, Trust Fund Board and TAS staff attended and participated. • Transitioned Grants Administrator position into LPS • Completed performance plan reviews for all LPS staff. • Attended Salish Sea Conference and the Land Summit Conference.	• Monthly meetings with Regional Planning Managers (RPMs) and Coordinators • Work with RPMs and Director of Administrative Services to manage LPS work program budgets and begin process for developing 2015/16 program budgets. • Provide support to RPMs and coordinators as necessary • Professional development day Scheduled for October 2014 – Bowen Island Planner and MCSCD staff invited and other Islands trust staff depending on agenda. • Continue to work on development of leadership skills with the management team. • Support RPM north, Salt Spring and Bylaw Enforcement Manager in transition and hiring new staff to fill vacancies. • Attending the LGMA Conference in June.
2. Planning support to Local Trust Committees	
• Continued to work with RPMs on providing planning services to local trust committees with a focus on completing projects by the end of the term • Worked with RPMs to continue to review and improve service delivery and resource allocation • Worked with directors to provide support to regional offices and to Island Planners	• Continue to work with RPMs on providing planning services to local trust committees with a focus on completing projects by the end of the term • Work with RPMs to continue to review and improve service delivery and resource allocation • Work with directors to provide support to regional offices and to Island Planners

ACTIVITIES COMPLETED SINCE LAST REPORT	PLANNED FOR NEXT QUARTER
Comprehensive Community Planning Initiatives	
• Continued to work with San Juan County, City of Seattle, Pacific Climate Action Consortium and Green Shores on Islands Trust Green Shores for Homes Project • Continued to worked with Trust Area Services on improving communications • Continued to work with regional planning managers to bring official community plans and land use bylaws into compliance with the Riparian Areas Regulation • Worked with regional planning managers to support a variety of local trust committee projects.	• Continue to work with San Juan County, City of Seattle, Pacific Climate Action Consortium and Green Shores on Islands Trust Green Shores for Homes Project • Continue to worked with Trust Area Services and Administrative Services on improving communications • Continue to work with regional planning managers to bring official community plans and land use bylaws into compliance with the Riparian Areas Regulation • Work with regional planning managers to support a variety of local trust committee projects.
Processing of Applications for Land Use Changes	
• Continued to work with RPMs and Legislative Services Manager to develop consistent approaches in regional offices • Continued to work to implement eScribe into Local Planning Services with aim to have fully functional by November 2014. • On-going work with regional planning managers to continue to review and improve service delivery and resource allocation • Improved operations of Bylaw Enforcement office with a focus on file management and communications	• Continuing to work with RPMs and Legislative Services Manager to develop consistent approaches in regional offices • Continue to work to implement eScribe into Local Planning Services with aim to have fully functional by November 2014. • On-going work with regional planning managers to continue to review and improve service delivery and resource allocation
Support for the Chief Administrative Officer, and liaising with other Directors	
• Participated in management meetings, Executive Committee meetings and other meetings as determined. • Continued working with Trust Area Services and Administrative Services to develop standards for cooperative tasks • Continued with collaboration training and look at ways to implement in organisation	• Participate in management meetings, Executive Committee meetings and other meetings as determined. • Continue working with Trust Area Services and Administrative Services to develop standards for cooperative tasks • Continue with collaboration training and look at ways to implement in organisation
Grants Administration	
• Orientation to Grants Program Manager Position and information technology. • Transitioned Grants Program Manager Position to local planning services • Supported Green Shores project to meet funder deliverables and/or negotiate changes. • Liaised with funders on Lasqueti Community Energy Project request • Project initiation for Gambier Local Trust Committee Forage Fish Habitat Assessment • Researched implications and needed policy changes regarding gaining CRA Qualified Donee Status • Supported SSIWPA grant application and liaised with funder re budgetary changes	• Prepare and present executive committee with request for decision on Lasqueti Community Energy Project request. • Update database and administrative systems/policies to reflect Qualified Donee status. • Prepare and present draft Grant (& donations) policy changes to local planning committee • Gambier Local Trust Committee Forage Fish Habitat Assessment Project Management • Green Shores for Homes Project support

David Marlor, MCIP
Director of Local Planning Services

LOCAL PLANNING COMMITTEE
WORK PROGRAM REPORT

To: Islands Trust Council

Date: June 4, 2014

WORK PROGRAM

1. **Renewable Energy Technologies in the Trust Area (Strategic Plan 1.6)**

   Current - Create a fact sheet including web links to address micro-hydro projects.

   Planned – Model policy and regulatory wording to address domestic tidal power, and small-scale hot water and small-scale solar voltaic power..

2. **Green Shores for Homes (Strategic Plan 2.1)**

   Current – Develop a Pilot program in collaboration with the Thetis Island Local Trust Committee. Incentives to be determined.

   Planned – Expand pilot program

3. **Local Planning Committee Policy Review**

   Current – Develop and implement survey of trustees and planners on the utility of the Local Planning Committee.

   Planned – to be determined

ON-GOING ITEMS

DEVELOPMENT APPROVAL INFORMATION – MODEL BYLAW – develop revised model bylaw to be attached to Policy 2.1.viii.

LETTER OF AGREEMENT WITH THE MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE – including discussion around access to water - Staff working with the MOTI to address the Letter of Agreement; next meeting planned for spring 2014. LPC is monitoring progress.

OCP/LUB PROGRAM STATUS – LPC is monitoring progress and funding availability.

DOMESTIC WIND POWER – Update report as required.

PROTECTION OF SPECIES AND ECOSYSTEMS – Staff to draft report and report back to LPC

ADVISORY PLANNING COMMISSION POLICY AND MODEL BYLAW – to consider review of the APC policy and develop recommended model APC bylaw.

David Marlor
Designate Staff

Louise Decario
Chair

REQUEST FOR DECISION

To: Islands Trust Council **For the Meeting of:**: June 18-19, 2014

From: Gabriola Island Local Trust Committee **Date Prepared:** June 4, 2014

SUBJECT: ISLANDS TRUST COUNCIL BYLAW NO. 150 - GABRIOLA ISLAND LOCAL TRUST AREA DEVELOPMENT APPROVAL INFORMATION BYLAW

RECOMMENDATIONS:

1. **That Trust Council Bylaw No. 150, cited as "Gabriola Island Local Trust Area Development Approval Information Bylaw No. 150, 2013". be read a First Time.**
2. **That Trust Council Bylaw No. 150, cited as "Gabriola Island Local Trust Area Development Approval Information Bylaw No. 150, 2013". be read a Second Time.**
3. **That Trust Council Bylaw No. 150, cited as "Gabriola Island Local Trust Area Development Approval Information Bylaw No. 150, 2013". be read a Third Time.**

CHIEF ADMINISTRATIVE OFFICER COMMENTS: Provincial legislation enables local governments to specify, by bylaw, the type of impact assessment information they require when property owners apply for certain types of land use changes. When local trust committees wish to have a bylaw for this purpose (known as a Development Approval Information Bylaw), the *Islands Trust Act* indicates that Trust Council is to adopt the bylaw. This procedure enables Trust Council to ensure that it has sufficient resources to support administration of the new process. The Gabriola Island Local Trust Committee requests Trust Council to adopt a Development Approval Information bylaw that clarifies the information applicants must provide when applying for bylaw amendments, development permits and temporary use permits.

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL:
Adoption of a Development Approval Information Bylaw for the Gabriola Island Local Trust Area will provide greater certainty for applicants and the LTC with respect to impact information obtained for applications subject to the bylaw. Staff would be authorized under the bylaw to exercise a degree of discretion in establishing the level of impact information required for each application and the adequacy of submitted professional reports.

FINANCIAL: Costs for providing information would be borne by applicants. Staff currently reviews reports as a routine part of application processing.

POLICY: Trust Council Policy 2.1viii establishes procedures and a template for development approval information bylaws.

IMPLEMENTATION/COMMUNICATIONS It is expected that some communications would be undertaken to inform professionals of the requirements associated with the bylaw.

Staff also anticipates establishing criteria and guidelines for the exercise of discretion with respect to the reports required for each application, and the review and assessment of submitted reports.

BACKGROUND

The Gabriola Island Local Trust Committee (LTC) has identified adoption of a Development Approval Information (DAI) Bylaw as a Top Priority item on its Work Program.

A DAI bylaw is the statutory mechanism allowing local governments to require applicants to provide information on the anticipated impact of a proposed activity or development. Traditional mechanisms for obtaining information from applicants – requirements written into DPA guidelines or *ad hoc* requests – are contrary to the legislation; the correct and sole means for a local government to obtain an impact assessment report is through authorization in a DAI bylaw.

The DAI bylaw would serve to provide a degree of certainty and consistency in the content and nature of the reports being provided by applicants. This would benefit staff and the LTC in assessing applications, while also reducing uncertainty for applicants, and reducing the likelihood that an application will be delayed through on-going requests for more information.

Section 920.01 of the *Local Government Act* permits, within an OCP, the specification of areas or circumstances within which development approval information can be required. The Gabriola Island OCP includes these specification requirements for development permit areas, temporary use permit designations and the rezoning applications contemplated by the OCP. Section 920.1 requires the enactment of a bylaw to establish the procedures and policies of the local government as to what impact information is to be provided (a DAI bylaw) and specifies that information may only be required for a zoning amendment, a development permit application, or a temporary use permit application.

Section 29(3.1) of the *Islands Trust Act* establishes that despite the granting of other Part 26 powers to local trust committees, Trust Council must adopt any DAI Bylaw for a Local Trust Area. This means that while any one DAI bylaw is developed for an LTC and would only apply within that local trust area, it must be read and adopted by Trust Council.

The adoption of a DAI bylaw for Gabriola has been recommended principally as a means to effectively implement development permit areas (DPA) for protection of the natural environment, which were established with the adoption of the current Gabriola OCP and LUB in 2014. The draft bylaw has been reviewed by Islands Trust staff, and the following resolution was adopted by the LTC at the meeting of May 14, 2014:

> **GB-2014-112**
> It was **MOVED** and **SECONDED**,
> that the Gabriola Island Local Trust Committee endorse Draft Bylaw No. 150 and refer it to Trust Council.
>
> **CARRIED**

REPORT(S)/DOCUMENT(S):

Attachment 1 - Gabriola Island LTA Development Approval Information Bylaw No. 150
Attachment 2 - Policy 2.1.viii Development Approval Information Bylaws

KEY ISSUE(S)/CONCEPT(S):

The draft DAI bylaw would take two approaches to provision of information for relevant applications:

1. For development permit applications where staff determines that impact information is required, the bylaw establishes that the applicant provide a report directly and lays out the content requirements of the reports for each type of DP (riparian areas, shoreline and marine areas, ecosystem protection, steep slopes).

2. For more complex and discretionary rezoning and TUP applications, the terms of reference procedure sets out in the model DAI bylaw would be used. This sets up a two-step process, where staff initially determines that impact information is required and the applicant provides terms of reference specific to the circumstances of the application for approval by staff. If the terms of reference are approved, then the applicant provides the impact information as set out in the scope of the terms of reference. It is anticipated that this procedure would be used for rezoning applications contemplating a significant increase in density and Temporary Use Permit applications that could have significant impacts.

RELEVANT POLICY:

Trust Council adopted policy 2.1.viii in 1998 which describes the process for Trust Council to consider DAI bylaws proposed by local trust committees (attached). A sample bylaw was also prepared at that time. The substantive elements of the Trust Council policy include the following:

- Each DAI bylaw may vary according to LTC needs;
- The criteria for Trust Council approval include financial, procedural and policy considerations;
- The LTC is responsible for initiating the creation of the bylaw;
- The purpose for the bylaw must be stated in the bylaw;
- The bylaw must be in the general form of the model bylaw;
- The assigned planner will prepare the substance of the bylaw;
- The LTC must give notice to Trust Council that it intends to forward a bylaw to it for adoption;
- Application for approval will be in the form of an RFD;
- Consideration by Trust Council will be at a regular quarterly meeting;
- The LTC may address Trust Council for a period not exceeding 5 minutes;
- If the bylaw is not approved it will be returned to the LTC with reasons;

Specifically, section E.4 of the policy establishes that the RFD include background materials addressing the following:

E.4.1: The number of properties and/or the size of the area to be affected by this bylaw:
The DAI bylaw would, upon adoption, apply to any property within the area subject to the Gabriola Island Official Community plan upon submission of the relevant application.

E.4.2: An Assessment of Administrative Workload, cost recovery and enforcement implications using the following elements:

- Volume: the DAI bylaw would establish standards for reports to be received concurrently with a relevant application; it would not be expected to affect the volume of applications.
- Administrative Staff: none

- Planning Staff: assigned planner would determine whether a report is required and assess the consistency of the report with the DAI Bylaw requirements. This is not substantively different from the *ad hoc* process currently undertaken by planning staff.
- Management: costs of reports would be borne by the applicant, management is no more or less likely to become involved in an application than in the absence of a DAI Bylaw.
- Cost Recovery: costs of reports are borne by applicants, extraordinary costs may subject to cost recovery as with any other application.

Staff consider that the bylaw and the LTC's procedures are consistent with this policy.

DESIRED OUTCOME: that Trust Council gives three readings to Bylaw No. 150. As there must be at least one day between the third reading and the adoption of a bylaw, the proposed bylaw would be brought back to Trust Council for reconsideration and final adoption. As a Trust Council bylaw, no approval by Executive Committee is required.

RESPONSE OPTIONS

1. That Bylaw No. 150, cited as "Gabriola Island Local Trust Area Development Approval Information Bylaw No. 150, 2013" be given First, Second and Third Readings.
2. That Bylaw No. 134, cited as "Gabriola Island Local Trust Area Development Approval Information Bylaw No. 150, 2013" be brought back to Trust Council for reconsideration and final adoption at the earliest available date.

Alternatives: That draft Bylaw No. 150, "Gabriola Island Local Trust Area Development Approval Information Bylaw No. 150, 2013" be returned to the Gabriola Island Local Trust Committee for changes, with reasons for the changes cited.

Prepared By: Sonja Zupanec, Island Planner

Reviewed By/Date: David Marlor, Director, Local Planning Services / May 27, 2014
Executive Committee - June 3, 2014



Chief Administrative Officer

ISLANDS TRUST COUNCIL
BYLAW NO. 150

****

A bylaw to establish procedures and policies for requiring development approval information for the Gabriola Island Local Trust Area

****

WHEREAS the Gabriola Island Local Trust Committee, pursuant to s.920.01 of the *Local Government Act*, has specified in an official community plan areas and circumstances for which development approval information may be required;

The Islands Trust Council, pursuant to s.920.1 of the *Local Government Act* and s.29(3.1) of the *Islands Trust Act*, enacts as follows:

PART I TITLE

1. This Bylaw may be cited for all purposes as "Gabriola Island Local Trust Committee Development Approval Information Bylaw No. 150, 2013".

PART II PURPOSE

2. The purpose of this bylaw is to allow the Local Trust Committee to obtain information on the anticipated impact of proposed activities or development on the community.

PART III APPLICATION OF BYLAW

3. The requirements of this Bylaw apply to:

   a. applicants for amendments to a bylaw of the Gabriola Island Local Trust Committee enacted under s.903 of the *Local Government Act*;

   b. applicants for a development permit; and

   c. applicants for a temporary use permit,

   if the activity or development that is the subject of the application is in an area specified for the provision of development approval information in Gabriola Island Official Community Plan Bylaw No. 166, Mudge Island Official Community Plan Bylaw No. 227 or Decourcy Island Official Community Plan Bylaw No. 16, or is an activity or development for which development approval information is otherwise required by those Bylaws.

4. The requirements of this Bylaw do not apply to any application for an activity or development that is a reviewable project under the *Environmental Assessment Act*.

5. Where development approval information is to be provided, the information shall be provided by the applicant, at the applicant's cost, in the form of a report prepared by the appropriate professional as set out in this bylaw.

PART IV PROCEDURE

6. The official assigned from time to time to provide planning services to the Gabriola Island Local Trust Committee is the official for the purposes of this Bylaw.

7. Within 30 days of receipt of an application an official shall determine whether and to what extent development approval information will be required in accordance with this bylaw and shall communicate the requirement to the applicant in writing.

8. An official may determine that all or part of the required development approval information must be provided for each application, either in a report described in Sections 15 through 18 in the case of development permit applications described in those sections, or pursuant to terms of reference that establish the scope of the required impact information for applications described in Section 21.

9. An applicant may request reconsideration by the Local Trust Committee of a decision of an official under this Bylaw within 30 days of the date on which the decision is mailed faxed or emailed to them.

10. A request for reconsideration must be delivered in writing to the Planning Clerk and must set out the grounds on which the applicant considers the requirement is inappropriate and what, if any, requirement the applicant considers the Local Trust Committee ought to substitute.

11. The Planning Clerk must place each request for reconsideration on the agenda of the next meeting of the Local Trust Committee following the date on which the request for reconsideration was delivered, provided the request is received at least 10 days prior to that meeting.

12. The Planning Clerk must notify the applicant and any other person who the Planning Clerk reasonably considers may be affected by the reconsideration, of the date of the meeting at which the reconsideration will occur.

13. At the meeting, the Local Trust Committee may either confirm the requirement or decision of the official or substitute its own requirement or decision.

PART V S. 920 (DEVELOPMENT PERMIT) APPLICATION REQUIREMENTS

14. For Development Permit applications specified in Sections 15 through 18 of this bylaw, the applicant shall provide, as part of the development permit application, all or part of a report in the specified form as determined by the official.

15. For an application for a permit in respect of a development permit area designated under s. 919.1(1)(a) of the *Local Government Act* for protection of **Riparian Areas**, the report shall contain the following information:

    a. A site plan professionally prepared at an appropriate scale, based on a legal survey, delineating the proposed development and associated features, the development permit area boundary, existing buildings and structures, roads and driveways, topographic features, the locations of the top of bank, high water mark, Streamside Protection and Enhancement Area (SPEA) widths, the width of any zones of sensitivity, and measures to maintain the integrity of the SPEAs. Site profiles and cross sections demonstrating terrain conditions prior to disturbance and intended conditions post development shall be included.

    b. A site inventory providing a description and evaluation of the riparian values, including species of fish that frequent the waterbody, and riparian features and habitat present.

    c. A description of the proposed development detailing construction, cut and fill, blasting, road or driveway construction, vegetation clearing, alteration to

hydrological systems, alterations affecting the watercourse, septic field installation, landscaping, or other land alteration during or after the development phase. The report should also identify alternative development options.

d. An assessment of the nature and extent of the impact of the proposed development. For a stream, as defined under the *Riparian Areas Regulation*: the results of the riparian assessment, using a detailed or simple assessment as indicated in the *Riparian Areas Regulation*, and establishing the SPEA width for the subject parcel. For other watercourses, that is, those that do not meet the definition of a stream under the *Riparian Areas Regulation*: an assessment of anticipated impacts on riparian habitat and features, the watercourse, and site hydrology. The assessment should identify impacts stemming from the construction phase, the intended long-term use of the site, and any cumulative impacts of development.

e. For a stream, as defined under the *Riparian Areas Regulation*: a description of all measures that will be taken to maintain and protect the SPEA from development, including, where appropriate, assessment and treatment of danger trees, windthrow, slope stability, tree protection during construction, encroachment and sediment and erosion control. For other watercourses, that is, those that do not meet the definition of a stream under the *Riparian Areas Regulation*: recommended measures to limit, mitigate and manage the impacts of the proposed development on riparian habit and features, the watercourse, and site hydrology.

f. Any recommended monitoring requirements, identifying actions that will be taken to ensure all proposed activities are completed as described, including a monitoring schedule and process for resolving any non-compliance.

g. Recommended actions to restore or enhance riparian functions or habitat that have been degraded prior to development or that would be impacted by the proposed development.

h. For a stream, as defined under the *Riparian Areas Regulation*, professional certification by the Qualified Environmental Professional(s) preparing the report that he or she is qualified to carry out the assessment, that the assessment methods have been followed, and provides his or her professional opinion that:
   i. If the development is implemented as proposed there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area, or
   ii. If the streamside protection and enhancement areas identified in the report are protected from the development and the measures identified in the report as necessary to protect the integrity of those areas from the effects of the development are implemented by the developer, there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area.

16. For an application for a permit in respect of a development permit area designated under s. 919.1(1)(a) of the *Local Government Act* for protection of **Shoreline and Marine areas (Gabriola Pass, Flat Top Islands and Lock Bay Areas)**, the report shall contain the following information:

    a. A site plan professionally prepared at an appropriate scale, based on a legal survey, delineating the proposed development and associated features, natural boundary of the sea, the landward development permit area boundary, existing buildings and structures, roads and driveways, topographic features, and

significant features identified in the site inventory. Site profiles and cross sections demonstrating terrain conditions prior to disturbance and intended conditions post development shall be included.

b. A site inventory, providing information on existing plant communities, marine and terrestrial habitats, current on-site and adjacent land uses, slope stability, erosional processes, hydrology, topography and marine sediment transport. This baseline assessment may require the involvement of several suitably qualified professionals.

c. For land based developments, a site background analysis that includes the following known information on the site:
   - A check for observed species and ecosystems at risk;
   - A description of the context of the site including the use of adjacent lands and proximity to protected areas;
   - A check for the presence of raptor and heron nests; and
   - A check for the presence of fish-bearing watercourses.

d. A description of the proposed development detailing construction (e.g. buildings, dock, ramp, road or driveway, etc), cut and fill, blasting, vegetation clearing, alteration to hydrological systems, alterations affecting the marine foreshore, septic field installation, landscaping, or other land alteration during or after the development phase. The report should also identify alternative development options.

e. An assessment of the nature and extent of the impact of the proposed development, in particular anticipated impacts on identified site conditions, including but not limited to marine and terrestrial habitat, site hydrology, marine sediment transport, and public access to and along the foreshore. The assessment should identify impacts stemming from the construction phase, the intended long-term use of the site, and any cumulative impacts of development in the area. The assessment should also include identification of potential impacts on adjacent sites and proximate sensitive areas.

f. Recommended measures to limit, mitigate and manage the impacts of the proposed development on terrestrial and marine habitats, as well as geomorphic, hydrological and coastal processes. The report should describe mitigation measures and their anticipated effectiveness in maintaining the health, form and function of environmentally valuable features.

g. Any recommended monitoring requirements, identifying actions that will be taken to ensure all proposed activities are completed as described, including a monitoring schedule and process for resolving any non-compliance.

h. Recommended actions to restore or enhance ecosystem functions or habitat that have been degraded prior to development or that would be impacted by the proposed development.

17. For an application for a permit in respect of a development permit area designated under s. 919.1(1)(a) of the *Local Government Act* for the purpose of requiring development permits for **Ecosystem Protection (The Tunnel)**, the report shall contain the following information:

    a. A site plan professionally prepared at an appropriate scale, based on a legal survey, delineating the proposed development and associated features, the development permit area boundary, existing buildings and structures, roads and

driveways, topographic features and significant features identified in the site inventory and conservation evaluation. Site profiles and cross sections demonstrating terrain conditions prior to disturbance and intended conditions post development shall be included.

b. A site inventory, commenting on the ecosystem classification, and based on current best practices, such as the Resources Information Standards Committee Standards for Describing Terrestrial Ecosystems in the Field, providing information on the existing plant communities, aquatic and terrestrial habitats, sensitive ecosystems, nesting trees, the presence of rare species and rare plant communities, current on-site and adjacent land uses, slope stability, erosional processes, hydrology and topography.

c. A site background analysis that includes the following known information on the site:
   - A check for observed species and ecosystems at risk;
   - A description of the context of the site including the use of adjacent lands and proximity to protected areas;
   - A check for the presence of raptor and heron nests;
   - A check for the presence of fish-bearing water courses.

d. A description of the proposed development detailing construction, cut and fill, blasting, road or driveway construction, vegetation clearing, alteration to hydrological systems, septic field installation, landscaping, or other land alteration during or after the development phase. The report should also identify alternative development options.

e. An assessment of the nature and extent of the impact of the proposed development, in particular anticipated impacts on identified environmentally valuable features, including but not limited to sensitive ecosystems, rare plant communities, rare species habitat, and site hydrology. The assessment should identify impacts stemming from the construction phase, the intended long-term use of the site, and any cumulative impacts of development in the area. The assessment should also include identification of potential impacts on adjacent sites and proximate sensitive areas.

f. Recommended measures to limit, mitigate and manage the impacts of the proposed development on environmentally valuable features. The report should describe mitigation measures and their anticipated effectiveness in maintaining the health, form and function of environmentally valuable features.

g. Any recommended monitoring requirements, identifying actions that will be taken to ensure all proposed activities are completed as described, including a monitoring schedule and process for resolving any non-compliance.

h. Recommended actions to restore or enhance ecosystem functions or habitat that have been degraded prior to development or that would be impacted by the proposed development.

18. For an application for a permit within a development permit area designated under s. 919.1(1)(b) of the *Local Government Act* for protection of development from **Steep Slopes**, the report shall contain the following information:

    a. A site plan professionally prepared at an appropriate scale, based on a legal survey, delineating the topographic features and showing natural slope contours in 1 to 5 metre contour intervals, significant natural features, current and

proposed buildings and structures, roads and driveways, proposed site grading and post development contours. Site profiles and cross sections demonstrating terrain conditions prior to disturbance and intended conditions post development shall be included.

b. An assessment of potential geotechnical hazards that may affect the subject site and neighbouring properties including all issues related to site drainage, soil slippage (surface or deep seated), rock fall hazards, seismic constraints, site clearing and vegetation retention. This should include a summary of the method of hazard analysis and the level of field work.

c. A description of the proposed development detailing construction, cut and fill, blasting, road or driveway construction, vegetation clearing, alteration to hydrological systems, alterations affecting the marine foreshore, septic field installation, landscaping, or other land alteration during or after the development phase. The report should also identify alternative development options and any recommended mitigation measures.

d. Any recommended monitoring requirements, identifying actions that will be taken to ensure all proposed activities are completed as described, including a monitoring schedule and process for resolving any non-compliance.

e. Where applicable, the report must meet the report guidelines for Legislated Landslide Assessments for Proposed Residential Development in British Columbia, May 2010, including submission of Schedule D (Landslide Assessment Assurance Statement).

19. Development Approval Information required in Sections 15 through 18 must be prepared by a professional or professionals, with qualifications specified in the table below, and in good standing with his/her professional organization within British Columbia, acting within his/her area of expertise, and with demonstrated and pertinent experience and/or training; except that the official may approve the involvement of a person having different qualifications if demonstrated, relevant, experience and qualifications are in the official's opinion suitable for the preparation of the information being provided in relation to a particular development permit application:

TYPE OF INFORMATION	CONSULTING PROFESSIONAL
Riparian Areas	Qualified Environmental Professional
Shoreline and Marine	Geotechnical/hydrological and marine considerations: • Geotechnical Engineer (P. Eng.) or Professional Geoscientist (P. Geo.) Biological / environmental considerations: • Registered Professional Biologist (R.P. Bio.)
Tree & Natural Vegetation Protection	Registered Professional Biologist (R.P. Bio.) or Registered Professional Forester (RPF)
Steep Slopes	Geotechnical Engineer (P. Eng.) or Professional Geoscientist (P. Geo.)

20. If the official is not satisfied that the impact information provided by the applicant is sufficient to comply with the requirements of the bylaw, either in scope, level of detail, accuracy or in any other respect, or does not address any particular information requirements that are identified in or arise from any applicable guidelines in an official community plan, the official may require the applicant to provide, at the applicant's

expense, further information reasonably required to comply with the bylaw, but a requirement for further information may be imposed once only.

PART VI TERMS OF REFERENCE

21. Within 30 days of the receipt of an application for the following:

    a. amendments to a bylaw of the Gabriola Island Local Trust Committee enacted under s.903 of the *Local Government Act*,

    b. a temporary use permit,

    the official shall provide to the applicant written Terms of Reference for the preparation of information on the impact of the activity or development that is the subject of the application.

22. To the extent that the proposed activity or development can reasonably be expected to have an appreciable impact on any of the following matters, the Terms of Reference must include those matters in the scope of the information that is to be prepared:

    a. the natural environment of the area affected, including sensitive ecosystems and the habitat of rare or threatened species, including surrounding habitats impacted by the development activity ;

    b. hazards, including geological, flood, stormwater, and wildfire hazards;

    c. greenhouse gas emissions, anticipated energy usage, and carbon emissions;

    d. groundwater resources;

    e. local infrastructure, including highways, ferry, water supply and sewage systems, fire protection systems, solid waste disposal and recycling facilities, utilities, local parking facilities and any other affected public infrastructure;

    f. local and off-island public or community facilities;

    g. local and off-island commercial services and employment opportunities;

    h. affordable and seniors housing needs;

    i. agricultural reserve lands and agricultural and forestry uses in the vicinity of the development;

    j. cultural heritage resources including resources of historical, cultural, archaeological, paleontological or architectural significance whether on land or underwater; and

    k. aesthetic values including the visual appearance of the development from adjacent properties, public lands, or the sea, and the effect of any artificial lighting proposed.

23. In addition to any matter listed in s.22, the official may include in the Terms of Reference any other matter on which the official considers information ought to be provided to the Local Trust Committee to permit a full understanding of the impact of the proposed activity or development on the island community affected.

DRAFT

24. The Terms of Reference must address any particular information requirements that are identified in or arise from any applicable guidelines in an official community plan, and in all cases must address any particular information requirements specified for such an application in any development application procedures bylaw of the Local Trust Committee.

25. In addition to any other requirements the Terms of Reference may require the person preparing the impact information to provide information on the relationship between the proposed activity or development and

    a. the object of the Islands Trust set out in the *Islands Trust Act*;

    b. the Islands Trust Policy Statement;

    c. the Islands Trust Fund Plan; and

    d. in the case of a proposed zoning amendment, the official community plan of the Local Trust Committee.

26. The Terms of Reference may specify that the impact information will be prepared by a person having professional expertise in the matters included in the Terms of Reference, and may include information specifying the identity, qualifications and experience of the person who the applicant proposes to engage to prepare the information.

27. The Terms of Reference must specify the date by which and the form and the number of copies in which the impact information will be provided.

PART VII PREPARATION OF DEVELOPMENT APPROVAL INFORMATION

28. The applicant must prepare the impact information in accordance with the accepted Terms of Reference and within the time specified in the Terms of Reference must provide it to the Local Trust Committee, at the applicant's expense.

29. For every matter within the scope of s.22 that is included in the Terms of Reference, the applicant must

    a. identify relevant baseline information and document the nature of the resource or other matter on which the proposed activity or development may have an impact;

    b. identify and describe the potential and likely impacts of the activity or development including any cumulative effects when combined with other projects proposed or under development;

    c. evaluate the impacts in terms of their significance and the extent to which and how they might be mitigated; and

    d. make recommendations as to conditions of approval that may be appropriate to ensure that undesirable impacts are minimized or avoided,

    all in accordance with generally accepted impact assessment methodology.

30. If the Terms of Reference specify professional expertise in the preparation of impact information, prior to authorizing the preparation of the information by any person the applicant must deliver to the official information specifying the identity, qualifications and experience of the person who the applicant proposes to engage to prepare the

information, unless that information was included in the approved Terms of Reference.

31. Within 10 business days of receipt of the information, the official must advise the applicant whether the proposed person is acceptable, and if the person is not acceptable the official must advise the applicant in writing of the reason and may propose one or more alternative acceptable persons. If such advice is not provided by the end of the tenth business day, the official is deemed to have accepted the proposed person.

32. If the official is not satisfied that the impact information provided by the applicant is sufficient to comply with the Terms of Reference, either in scope, level of detail, accuracy or in any other respect, the official may require the applicant to provide, at the applicant's expense, further information reasonably required to comply with the Terms of Reference, but a requirement for further information may be imposed once only. If the additional information is found to be deficient by the official, the application will be declined.

PART VIII INDEPENDENT REVIEW

33. If the official considers that the impact information provided by the applicant, or any portion of it, requires an independent review prior to being considered by the Local Trust Committee, the official may require the applicant to provide such a review of the information including the methodology used in its preparation.

34. The official may specify that the independent review be conducted by a member of the relevant professional association, and may specify terms of reference for the review.

35. The applicant must arrange for the independent review to be conducted and submitted in writing to the Local Trust Committee, at the applicant's expense and within the time specified by the official.

PART IX PROPRIETARY RIGHTS IN INFORMATION

36. The information that is provided to the Local Trust Committee pursuant to this Bylaw is required by the Local Trust Committee in the exercise of its powers under the *Local Government Act* and the *Islands Trust Act*. Every report or other document provided to the Local Trust Committee pursuant to this Bylaw must accordingly contain an express grant of permission to the Local Trust Committee to use and reproduce the information contained in the report or other document for non-commercial purposes.

READ A FIRST TIME this	day of	, 20__.
READ A SECOND TIME this	day of	, 20__.
READ A THIRD TIME this	day of	, 20__.
ADOPTED this	day of	, 20__.

Chair Secretary

2.1.viii Procedure

DEVELOPMENT APPROVALS INFORMATION BYLAWS

Trust Council: September 18, 1998

A: PURPOSE:

To describe a process for Islands Trust Council to consider bylaws proposed by local trust committees for requiring Development Approvals Information in their local areas.

B: REFERENCES:

B.1. Sections 879.1 and 920.1 *Municipal Act*

B.2. Section 29(3.1) *Islands Trust Act*

B.3. Council Policy 2.2.i and 2.2.iii

C: BACKGROUND:

Under the provisions of the legislation, it is Islands Trust Council that must adopt a bylaw pertaining to a local area before a local trust committee can require development approval information. Each bylaw will vary depending on local circumstances and needs. This policy specifies the procedure for a local trust committee seeking Trust Council approval of a bylaw.

D: POLICY:

D.1. Legislative Requirements

D.1.1. Prior to enactment of a local bylaw establishing development approvals information areas or circumstances, a local trust committee must have a bylaw establishing policies and procedures for development approvals information applicable to the local area adopted by Trust Council.

D.1.2. A local trust committee cannot enact development approvals information requirements in the absence of a Trust Council bylaw.

D.2. Criteria for Approval

D.2.1. **Financial** Islands Trust Council will consider the impact of the proposed bylaw on:

- proven ability to accommodate the implementation of the bylaw in the regional planning team work program;
- existing administrative capacity; and
- anticipation of future budgetary needs.

D.2.2. **Procedural Certainty** Trust Council will review the bylaw in terms of administrative processes. A proforma bylaw has been prepared to assist local trust committees.

D.2.3. **Policy** Trust Council will ensure the proposed bylaw is consistent with:

- the local Official Community Plan; and
- the Policy Statement.

E: PROCEDURE:

E.1. Requirements

E.1.1. Local trust committees are responsible for the creation of development approvals information bylaws appropriate to their areas or circumstance for Islands Trust Council consideration.

E.1.2. The purpose for requiring the development approvals information must be clearly stated in the proposed bylaw.

E.1.3. The bylaw must be in the general form of the proforma attached to this policy.

E.1.4. Omission of any conditions specified in the proforma must be identified and the reason for them not being applicable defined.

E.1.5. The local area planner will prepare the substance of the bylaw and the appropriate planning secretary will assign the bylaw # and establish a Trust

Council bylaw folder according to procedures established for trust council bylaws by the Secretary.

E.2 Notice

E.2.1. Notice must be given to Trust Council by a resolution of the local trust committee that it intends to prepare a development approvals information bylaw for Trust Council's consideration at the next regularly scheduled meeting.

E.2.2. The Executive Committee may waive the requirement for notice in E.2.1. where the bylaw does not have broad application and there is some urgency to its passage.

E.2.3. Notice shall include the intent of the proposed regulation, the application of the bylaw in terms of area and/ or number of properties, and an assessment of its affect on the local trust committee and regional planning teams' work program.

E.3 Request for Decision

E.3.1. Application to Trust Council for approval of a local development approvals information bylaw will be made on the "request for decision" form in accordance with Policy 2.2.i Requests for Decision.

E.3.2. Any proposed development approvals information bylaw with the required background reports must be submitted to the Executive Committee for inclusion in the Trust Council binder package no later than 4 weeks prior to the date of the Trust Council quarterly meeting.

E.3.3. The Executive Committee will ensure all materials specified in this policy are included and may return the request for further information.

E.3.4. Trust Council will consider the bylaw in its regular quarterly business meeting.

E.3.5. The local trust committee submitting the application may address Trust Council for a period not to exceed 5 minutes in support of the application.

E.3.6. Bylaws not approved will be returned to the local trust committee with an explanation of the reasons for the decision.

E.3.7. A local trust committee may resubmit a request at a subsequent Trust Council meeting if it addresses the concerns that caused the application to be returned.

E.3.8. Amendments proposed for returned bylaws, if they address the concerns raised by Trust Council, may be considered by Resolution Without Meeting of Trust Council if the Executive Committee deems it necessary to proceed before the next regularly scheduled quarterly meeting.

E.4. Background Materials

E.4.1. A report identifying the number of properties and / or size of the area to be affected by this bylaw must be prepared by the local trust committee to be presented with the bylaw to Trust Council.

E.4.2. An assessment of administrative workload, cost recovery and enforcement implications must be prepared by the local trust committee for the consideration of Trust Council using the following elements:

- **Volume -** the scope of applicability for potential applications.
- **Administrative Staff –** extraordinary requirements for clerical processing.
- **Planning Staff –** extraordinary requirements for staff to review development approval information report and/or for reconsideration at the applicant's request.
- **Management –** extraordinary requirements for management to assess and prepare cost recovery arrangements for development approvals information requirements.
- **Cost Recovery –** extraordinary requirements can be (enabling fees bylaw in place) and would be covered under lost recovery arrangements.

F: ATTACHMENTS:

F.1. Proforma development approvals information bylaws.

BRIEFING

To: Trust Council **For the Meeting of:** June 18-19, 2014

From: Local Planning Committee **Date:** June 3, 2014

SUBJECT: RIPARIAN AREAS REGULATION IMPLEMENTATION UPDATE

DESCRIPTION OF ISSUE: To update the Islands Trust Council, through the Local Planning Committee, on the status of implementation of the Riparian Areas Regulation (RAR) in the Islands Trust Area and the results of the Ombudsperson's review of the procedures around implementation of Riparian Areas Regulation.

BACKGROUND: The Ministry of Forests, Lands and Natural Resource Operations, West Coast Region, Resource Stewardship Division, issued a letter dated July 20, 2011 to the Islands Trust confirming the verified and unverified watershed categories on all the major islands, with the exception of Gambier Local Trust Area.

On two islands (Lasqueti and Hornby) the Ministry has introduced a temporary category of "unverified" for several watersheds until such time as they are able to confirm whether these watersheds fall under the Riparian Areas Regulation. This designation has also been applied to Gambier.

In March 2014 the Ombudsperson released her findings and recommendations with respect to the Riparian Areas Regulation; a summary of those recommendations is in Section 2 and the full report is attached to this briefing. **Note that the Ombudsperson's findings and recommendations deal only with Ministry internal procedures, and have no impact on the requirement for local governments to be compliant with the Riparian Areas Regulation.**

The legislature has also introduced changes to the *Fish Protection Act* and those are summerised in Section 3.

Section 1 - Status of Local Trust Committee Bylaws
Local trust committees are in the process of reviewing their bylaws and assessing the options available to them to reach compliance with Section 12 of the *Fish Protection Act* (commonly referred to as being compliant with RAR).

The following chart indicates the status of compliance with the Riparian Areas Regulation (**Bold** indicates bylaws in compliance with RAR).

Local Trust Area	Regulatory Bylaw No.	Comments	Compliance with RAR
Denman	OCP No. 185 LUB No. 186	Mapping complete. Bylaw under development.	In Progress
Executive (Bellenas - Winchelsea)	**n/a - Bylaw 27 (OCP) and Bylaw 28 (LUB) under development.**	**No streams as defined by the Riparian Areas Regulation identified.**	**Yes**
Gabriola	OCP No. 166 (Gabriola) LUB No. 177 (Gabriola)	OCP with the Minister; LUB going to EC.	In Progress
	OCP No. 227 (Mudge) LUB No. 228 (Mudge)	**No streams as defined by the Riparian Areas Regulation identified on Mudge Island.**	**Yes**
	OCP No. 16 (De Courcey) Zoning No. 44 (De Courcey)	**No streams as defined by the Riparian Areas Regulation on De Courcey Island.**	**Yes**
Galiano	**OCP No. 108 LUB No. 127**	**Adopted OCP amendments including RAR DPAs.**	**Yes**
Gambier	OCP No. 73 (Gambier) LUB No. 86 (Gambier)	Initial assessment of watersheds to begin in the 2014/15 fiscal year.	In Progress
	OCP No. 77 (Keats) LUB No. 78 (Keats)	All watersheds unverified. Initial assessment of watersheds to begin in the 2014/15 fiscal year in conjunction with Gambier.	In Progress
	OCP No. 109 (Associated) LU No. 120 (Associated)	All watersheds unverified. Initial assessment for Thormanby considered for 2014/15 fiscal year, pending prioritization with rest of LTA.	Unknown
Hornby	OCP No. 104 LUB No. 86	Mapping complete. Bylaw under development.	In Progress
Lasqueti	OCP No. 77 LUB No. 78	Work underway to develop RAR bylaws in 2014/15 fiscal	In Progress
Mayne	OCP No. 144 LUB No. 146	LTC halted work on RAR bylaw pending confirmation from FLNRO on inconsistent messaging.	No
North Pender	**OCP No. 171 LUB No. 103**	**DPA in place for all RAR streams.**	**Yes**
	OCP No. 147 (Associated) LUB No. 148 (Associated)	**No streams as defined by the Riparian Areas Regulation.**	**Yes**
Saturna	**OCP No. 70 LUB No. 78**	**Mapping complete. RAR streams largely inside National Park.**	**Yes**
Salt Spring	OCP No. 434 (Salt Spring) LUB No. 355 (Salt Spring)	Mapping complete. RAR bylaws in progress.	In Progress
	OCP No. 51 (Piers) LUB No. 373 (Piers)	**No streams as defined by the Riparian Areas Regulation .**	**Yes**
	CRD Zoning 103 (Prevost)	One RAR Designated watershed.	No.
	Zoning 123 (Secretary, Wallace, Outer Islands)	**No streams as defined by the Riparian Areas Regulation.**	**Yes**

Local Trust Area	Regulatory Bylaw No.	Comments	Compliance with RAR
South Pender	**OCP No. 91 LUB No. 107**	**No streams as defined by the Riparian Areas Regulation.**	**Yes**
Thetis	OCP No. 88 (Thetis) LUB No. 89 (Thetis)	Bylaw under development.	In Progress
	OCP/LUB No. 42 (Valdes)	Unknown- no stream mapping undertaken	No
	Zoning No. 13 (Ruxton)	Proposed Bylaw 94, new LUB for Thetis Associated Island, contains 30 metre setback for watercourses and wetlands to comply with RAR. Expected to be adopted in 2014 calendar year.	In Progress
	OCP No. 93 (Associated) PUB No. 94 (Associated)	**No streams as defined by the Riparian Areas Regulation.**	**Yes**

Section 2 – Ombudperson's Findings

In March 2014, the Ombudsperson has released her report "Striking a Balance: The Challenges of using a Professional Reliance Model in Environmental Protection – British Columbia's Riparian Areas Regulation" In this report, the Ombudsperson makes 21 findings and 25 recommendations, most of the recommendations have been accepted by the Ministry of Forest, Lands and Natural Resource Operations (FLNRO), except as noted below.

Some key recommendations of interest:

1. FLNRO is to report on local governments not in compliance with RAR on October 1, 2014
2. FLNRO is to develop mechanisms by October 1, 2015 to allow the Ministry to require local government compliance
3. FLNRO to clarify scope of authority of local governments to vary streamside protection and enhancement areas to reflect Court of Appeal decision in Yanke v. Salmon Arm and then to update the guidebook.
4. FLNRO is to update public information on RAR by June 30, 2014, and to ensure it remains up to date and accurate
5. FLNRO is to review ALL RAR assessments (not a sampling as they do now) (not accepted by FLNRO)
6. Tightening up on qualification and training requirements for Qualified Environmental Professionals (QEP), including requirement for FLNRO to ensure QEP is in good standing
7. FLNRO to establish expiration dates for QEP reports with automatic notice to local government when a report expires
8. Establishment of monitoring and post development reports on whether development complies with QEP report and FLNRO to take action in cases where development does not comply with QEP report.

There are other recommendations, which may be read in the report linked below.

https://www.ombudsman.bc.ca/images/resources/reports/Public_Reports/Striking_a_Balance_Report.pdf

If the recommendations are implemented they will address some of the major concerns of Islands Trust Staff in relation to implementing RAR in the Islands Trust.

None of these recommended changes will affect the work we are currently doing; but local trust committees now have a deadline if they want to avoid being on the list of local governments that have not complied with RAR. **Note that to avoid being on the list of local governments not in compliance with RAR, the local trust committees will have to have adopted a bylaw to implement RAR by October 1, 2014; being in the process of undertaking mapping or developing a bylaw will not count.**

We can also expect regulatory changes to address local governments that have not complied with RAR. This is consistent with the proposed changes to the *Fish Protection Act* (now called the *Riparian Areas Protection Act*) that allows the Minister more authority to make regulations for RAR.

Section 3: Legislative Changes

In spring 2014 the legislature introduced Bill 18, the *Water Sustainability Act*. Under Consequential and Related Amendments, the *Fish Protection Act* is amended to transfer most of the non-fish related stream protection measures to the new *Water Sustainability Act,* to rename the *Fish Protection A*ct as the *Riparian Areas Protection Act*. Essentially, only Section 1 [definition of local government], Section 12 [provincial directives on streamside protection] and Section 13 [regulation making authority] remain in the new Act. Section 12 has been amended to allow the Minister to make any kind of directive (currently limited to policy directives) and Section 13 has been extensively reworked to provide more powers to the Minister to make regulations. Presumably these changes will allow the legislature to implement many of the Ombudperson's recommendations.

ATTACHMENT: No

FOLLOW-UP: Director of Local Planning Services will:

1. Continue to monitor and report upon the completion RAR bylaws in the Trust Area and monitor and report on legislative changes related to RAR.

Prepared By: David Marlor, Director of Local Planning Services

Reviewed By/Date: Local Planning Committee – May 7, 2014
Executive Committee – June 3, 2014



Chief Administrative Officer

BRIEFING

To: Trust Council **For the Meeting of:** June 18-19, 2014

From: Miles Drew, Bylaw Enforcement Manager **Date :** June 3, 2014

SUBJECT: BYLAW ENFORCEMENT REPORT

DESCRIPTION OF ISSUE:
A report on the number of enforcement files; organized by local trust area, and by the type of enforcement. Also included are reports on the status of open files and the length of time current files have been open.

BACKGROUND:
Attached are four tables and two pie charts that provide information on bylaw enforcement activity.

Table 1 shows the total number of bylaw enforcement files for each local trust area by Fiscal year and the number of files remaining open at the end of the Fiscal year. Information is provided for the 2011/12, 2012/13 and 2013/14 Fiscal years. For the 2013/14 fiscal year the information is broken down by Quarter, in addition to providing a total for the 2013/14 Fiscal year.

Chart 1 shows the number of files open at the end of the most recent reporting Quarter.

Table 2 shows the number of open files by violation type. The table includes the more common categories of enforcement types. The “Other Land Use” column includes a mix of enforcement types that do not fit in the larger categories.

Chart 2 shows the percentage of open files by type.

Table 3 show the status of open files as well as the numbers of new and closed files during the most recent reporting Quarter.

Table 4 shows how long current bylaw enforcement files have been open.

ATTACHMENT(S):
Bylaw Enforcement File Volume Report
Bylaw Enforcement by Violation Type Report
Status of Open Files Report
Length of Time BE Files Have Been Open Report

AVAILABLE OPTIONS:

1. Receive for information.
2. Request additional information to be presented in the report.

FOLLOW-UP:
Reports will be updated and presented every quarter to Trust Council.

Prepared By:	Robert Gratton, Bylaw Enforcement Administrative Assistant **For:** Miles Drew, Bylaw Enforcement Manager	
Reviewed By/Date:	David Marlor, Director, Local Planning Services Local Planning Committee Executive Committee	May 30, 2014 May 7, 2014 June 3, 2014

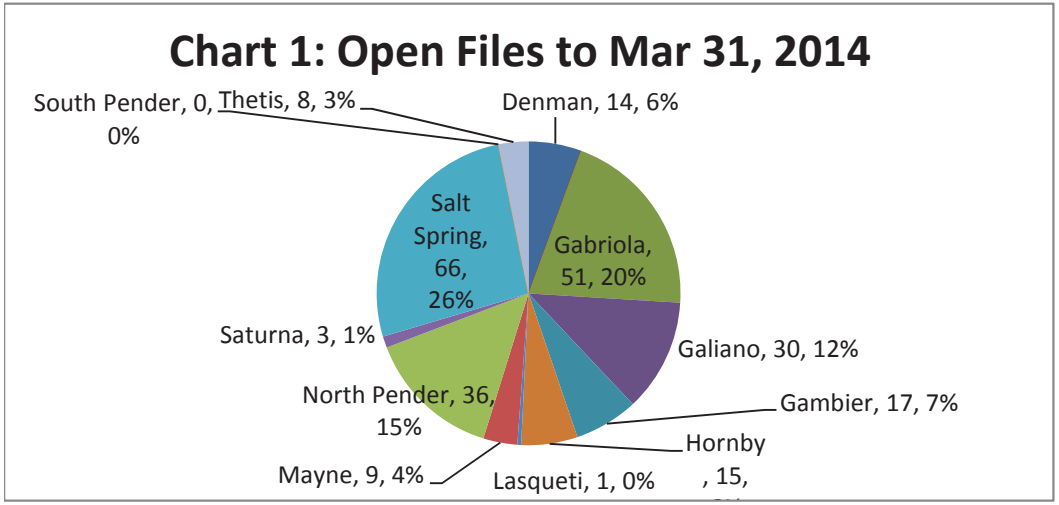


Chief Administrative Officer

Bylaw Enforcement - File Volume

TABLE 1

LTC	Fiscal 2011/12				Fiscal 2012/13				Fiscal 2013/14							
	Total	%	Open	%	Total	%	Open	%	Q1	Q2	Q3	Q4	YTD Total	YTD %	T Open	%
Denman	23	6%	15	5%	19	6%	18	6%	18	13	12	14	21	7%	14	6%
Executive	0	0%	0	0%	0	0%	0	0%	0	0	0	0	0	0%	0	0%
Gabriola	46	12%	28	10%	40	13%	40	14%	35	30	29	51	60	20%	51	20%
Galiano	35	9%	28	10%	25	8%	25	9%	25	27	29	30	32	11%	30	12%
Gambier	14	4%	14	5%	16	5%	16	6%	15	14	15	17	18	6%	17	7%
Hornby	23	6%	21	7%	17	6%	16	6%	15	14	15	15	16	5%	15	6%
Lasqueti	1	0%	1	0%	1	0%	1	0%	1	1	1	1	1	0%	1	0%
Mayne	34	9%	18	6%	8	3%	5	2%	8	8	9	9	10	3%	9	4%
North Pender	61	16%	41	14%	43	14%	40	14%	35	35	32	36	45	15%	36	14%
Saturna	8	2%	8	3%	8	3%	6	2%	6	3	3	3	6	2%	3	1%
Salt Spring	131	34%	99	35%	112	37%	104	37%	63	72	77	66	81	27%	66	26%
South Pender	1	0%	1	0%	1	0%	1	0%	0	1	1	0	1	0%	0	0%
Thetis	13	3%	12	4%	12	4%	10	4%	11	8	8	8	11	4%	8	3%
TOTAL	390	100%	286	100%	302	100%	282	100%	232	226	231	250	302	100%	250	100%



LEGEND

YTD Total = Total number of open files year to date, including open files carried over from the previous quarter and files opened during the current reporting period.

T Open = Total number of files remaining open at the end of the current reporting period

Q1 = April 1 to June 30 - reported to September Trust Council

Q2 = July 1 to September 30, Report to December Trust Council

Q3 = October 1 to December 31, Reported to March Trust Council

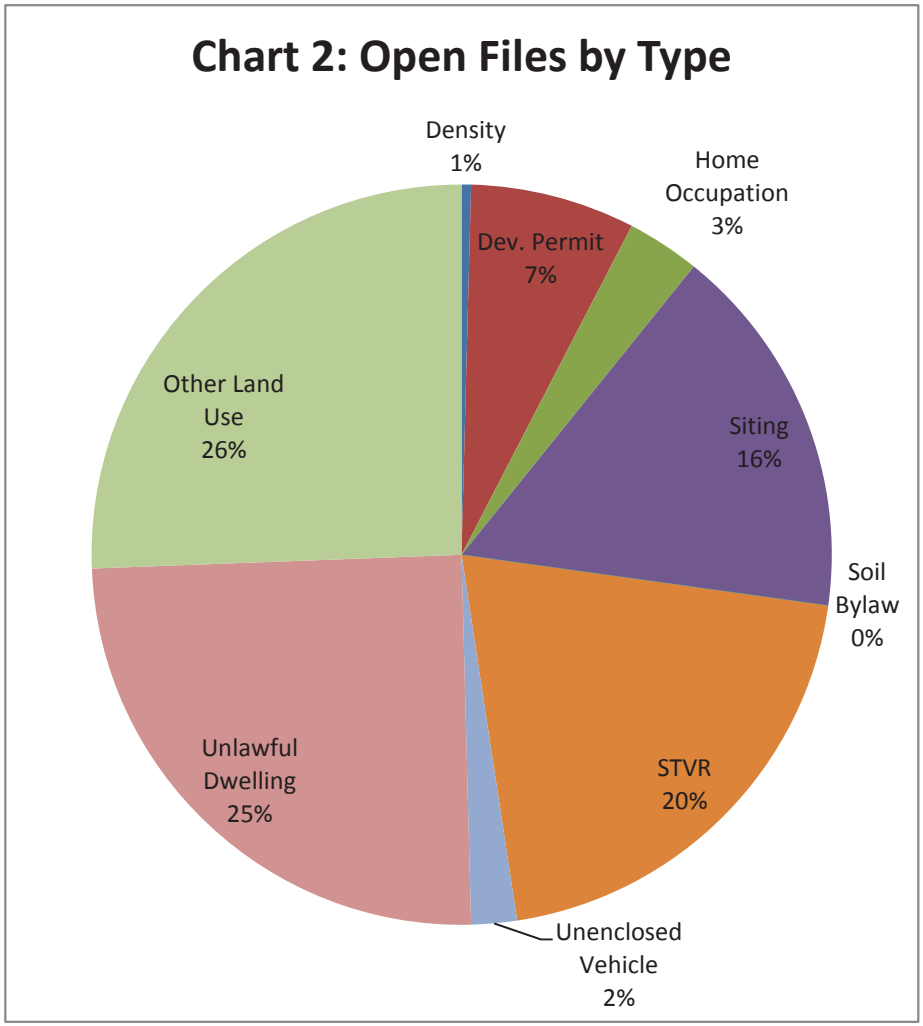
Q4 = January 1 to March 31, Reported to June Trust Council

The numbers for each quarter are a running total of all open and closed files in the period.

Bylaw Enforcement - Violation Type

Table 2

LTC	Density	Dev. Permit	Home Occupation	Siting	Soil Bylaw	STVR	Unenclosed Vehicle	Unlawful Dwelling	Other Land Use	TOTALS	Percentage
	Violation Type										
Denman		6				1		3	4	14	6%
Executive										0	0%
Gabriola		2	3	4		21		11	10	51	20%
Galiano			2	8		4	2	7	7	30	12%
Gambier				7				1	9	17	7%
Hornby	1	1	1	1		2		7	2	15	6%
Lasqueti								1		1	0%
Mayne				4		3			2	9	4%
North Pender		1		5		12	2	7	9	36	14%
Saturna				2		1				3	1%
South Pender										0	0%
Salt Spring		8	2	5	0	7	1	24	19	66	26%
Thetis				5				1	2	8	3%
TOTALS	1	18	8	41	0	51	5	62	64	250	100%
%	0%	7%	3%	16%	0%	20%	2%	25%	26%	100%	



Bylaw Enforcement - Status of Open Files

Table 3

Local Trust Area	2013/2014 4th Quarter (Jan 1 - Mar 31)				Proceeding to Compliance	On Hold			Litigation	TOTAL
	OPEN Start of Quarter	NEW	CLOSED	OPEN End of Quarter		Application in to LTC	LTC Direction	Staff Direction*		
Denman	12	2		14	9		3	1	1	14
Executive	0			0						0
Gabriola	29	25	3	51	51					51
Galiano	29	2	1	30	14	4	3	7	2	30
Gambier	15	2		17	9		5	1	2	17
Hornby	15			15	8		6	1		15
Lasqueti	1			1	1					1
Mayne	9			9	8	1				9
North Pender	32	7	3	36	21	1		11	3	36
Saturna	3			3	2		1			3
Salt Spring	77	4	15	66	44		16	5	1	66
South Pender	1		1	0						0
Thetis	8			8	8					8
Total	231	42	23	250	175	6	34	26	9	250
Percentage					70%	2%	14%	10%	4%	100%

* "Staff Direction" refers to files that Staff have decided not to pursue at this time for a variety of reasons, such as waiting for a court decision or for bylaw amendments that could alter the need for enforcement.

Bylaw Enforcement - Length of Time Files Have Been Open

Table 4

Local Trust Area	<1 year	1-5 Years	> 5 years	Total Open Files
Denman	4	9	1	14
Executive	0	0	0	0
Gabriola	30	20	1	51
Galiano	7	7	16	30
Gambier	3	13	1	17
Hornby	1	11	3	15
Lasqueti	0	1	0	1
Mayne	7	2	0	9
North Pender	14	19	3	36
Saturna	1	0	2	3
South Pender	0	0	0	0
Salt Spring	17	28	21	66
Thetis	3	4	1	8
TOTAL	87	114	49	250
PERCENTAGE	35%	46%	20%	

BRIEFING

To: Trust Council **For the Meeting of:** June 18-19, 2014

From: David Marlor, Director of Local Planning Services **Date prepared:** June 4, 2014

SUBJECT: LOCAL PLANNING COMMITTEE REFERRAL OF ADVISORY PLANNING COMMISSION CONFLICT OF INTEREST MATERIAL

DESCRIPTION OF ISSUE:
The purpose of this briefing is to provide an update to Trust Council on the Local Planning Committee's work so far on Advisory Planning Commission conflict of interest, and to introduce two documents for Trust Council's information.

BACKGROUND:

At its regular meeting in June 2014, Trust Council passed the following resolution in response to concerns raised around conflict of interest as it applies to advisory planning commissions:

> ***TC-2014-035***
> *That the Islands Trust Council request the Local Planning Committee to review the Advisory Planning Commission policy and recommend amendments and a model APC bylaw for Trust Council consideration.*

At its meeting on May 7, 2014, the Local Planning Committee considered the following three items on the topic:

a) A Briefing prepared by the Chief Administrative Officer (CAO) on options for the Local Planning Committee to consider (regarding the management of Conflict of Interest) as it develops a model APC bylaw for consideration by local trust committees. The Briefing provides background information on conflict of interest and bias, relevant legislation, case law and Roberts Rules of Order, examples of how this issue has been addressed in other jurisdictions. It provides a range of options, with information about the characteristics of each.
b) Draft guidelines for advisory commission members on Conflict of Interest and bias. This is presented in the form of Frequently Asked Questions (FAQs). This document is still a discussion draft and Trust Council is being asked to provide feedback on it. The intent is that a final version of this guide would be included in the orientation material for advisory planning commission members.
c) An RFD from Director David Marlor regarding addition of this topic to the LPC's work program, outlining the implications and options for managing existing work program items.

After consideration of these materials, the Local Planning Committee passed the following resolutions:

Resolution LPC-2014-021

That the Local Planning Committee submit the briefing from CAO Adams titled "Model APC Bylaw - Options for Treatment of APC Member Conflict of Interest" to Trust Council for input, along with the APC FAQ document.

Resolution LPC-2014-022

That the Local Planning Committee direct staff to prepare a cover memo to accompany the APC briefing from CAO Adams to Trust Council. The memo should introduce the briefing, invite comments on the guidelines and convey that the LPC has added the APC bylaw to its work program review.

Resolution LPC-2014-023

That the Request for Decision presented by Director Marlor regarding Referral of APC Conflict of Interest from Trust Council be deferred to the agenda for the August 2014 Local Planning Committee meeting.

In summary, the Local Planning Committee has:

a) Referred a Briefing on APC Conflict of Interest to Trust Council for information (Attachment 1).
b) Requested Trust Council to comment on the document, included with Attachment 1 and entitled '*Advisory Groups, Conflict of Interest and Bias – Guidelines for Members of Advisory Groups at the Islands Trust* (DRAFT)'
c) Deferred consideration of Trust Council's original request until its August 2014 meeting.

ATTACHMENT(S):

1. Briefing - Model APC Bylaw – Options for Treatment of APC Member Conflict of Interest (Includes the Draft Guidelines attachment mentioned above)

AVAILABLE OPTIONS:

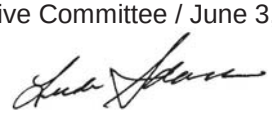
1. Trust Council to provide feedback to the CAO on the draft guidelines for APC members in relation to conflict of interest and bias.
2. Other actions as directed by Trust Council.

FOLLOW-UP:

LPC will consider Trust Council's request on reviewing Trust Council APC policies and recommending amendments and a model APC bylaw at its August meeting.

Prepared By: David Marlor, Director of Local Planning Services

Reviewed By/Date: Linda Adams, Chief Administrative Officer / May 28, 2014
Executive Committee / June 3, 2014



Chief Administrative Officer

BRIEFING

To: Local Planning Committee **For the Meeting of:** May 7, 2014

From: CAO Linda Adams **Date prepared:** May 2, 2014

File No.: LPC

SUBJECT: MODEL ADVISORY PLANNING COMMISSION (APC) BYLAWS – OPTIONS FOR TREATMENT OF APC MEMBER CONFLICT OF INTEREST

DESCRIPTION OF ISSUE:

At its meeting of March 2014, the Islands Trust Council passed the following resolution:

> *That the Islands Trust Council request the Local Planning Committee to review the Advisory Planning Commission policy, and recommend amendments and a model Advisory Planning Commission bylaw for Trust Council consideration.*

The Local Planning Committee will give initial consideration to this topic at its meeting in May, 2014. While a model APC bylaw would address a variety of procedural topics, this briefing focuses on a range of options for addressing situations where an APC member has a private interest in a matter referred to the APC.

Also in March 2014, the Islands Trust Council passed a resolution requesting a staff briefing regarding related matters raised in a delegation from Mr. Cameron Thorn. That briefing to Trust Council is still in preparation and will be provided to Trust Council in June, as requested.

BACKGROUND:

Conflict of Interest

As noted in *Managing Conflict of Interest in the Public Sector – A Toolkit*[1], a Conflict of Interest arises "*when a public official has private-capacity interests which **could** improperly influence the performance of their official duties and responsibilities".*

While sometimes misunderstood, it is also important to recognize that there is nothing improper about having a Conflict of Interest, provided it is managed properly and does not result in any improper actions. Conflicts of interest are relatively common and often unavoidable. As noted by Dr. Chris MacDonald (Ethics Consultant):

It is crucial to see that a COI is a situation, not an accusation. Being in a COI is not the same as being corrupt, and pointing out that someone is in a COI is not the same as accusing them of bias or lack of integrity. A COI, if not dealt with properly, may leave doubt *about the objectivity of a particular decision-making process.*

[1] Whitton, H. 2005. *Managing Conflict of Interest in the Public Sector – A Toolkit*. Published by the Organisation for Economic Co-operation and Development. (This toolkit is based on Guidelines for Managing Conflict of Interest in the Public Sector, prepared by the Organisation for Economic Cooperation and Development, of which Canada is a member. The Guidelines provide useful information on many aspects of this topic)

Further background information is provided here:

The presence of a conflict of interest is independent of the occurrence of impropriety. Therefore, a conflict of interest can be discovered and voluntarily defused before any corruption occurs. A widely used definition is: "A conflict of interest is a set of circumstances that creates a risk that professional judgement or actions regarding a primary interest will be unduly influenced by a secondary interest." Primary interest refers to the principal goals of the profession or activity, such as the protection of clients, the health of patients, the integrity of research, and the duties of public office. Secondary interest includes not only financial gain but also such motives as the desire for professional advancement and the wish to do favours for family and friends, but conflict of interest rules usually focus on financial relationships because they are relatively more objective, fungible, and quantifiable. The secondary interests are not treated as wrong in themselves, but become objectionable when they are believed to have greater weight than the primary interests. The conflict in a conflict of interest exists whether or not a particular individual is actually influenced by the secondary interest. It exists if the circumstances are reasonably believed (on the basis of past experience and objective evidence) to create a risk that decisions may be unduly influenced by secondary interests.[2]

In the context of an Advisory Planning Commission, a 'primary interest' of a Commission is to provide advice to a local trust committee '*that reflects the interest of the community at large'*.[3]

Bias

Some definitions of bias include:

'a tendency to believe that some people, ideas, etc., are better than others that usually results in treating some people unfairly'[4]

'a predisposition or prejudice'[5]

'an inclination of temperament or outlook to present or hold a partial perspective and a refusal to even consider the possible merits of alternative points of view. People may be biased toward or against an individual, a race, a religion, a social class, or a political party. Biased means one-sided, lacking a neutral viewpoint, not having an open mind'.[6]

In terms of procedural fairness, bias may be treated differently from conflicts of interest. Bias is used to describe a situation where a person has a closed mind for some reason, unrelated to a special interest, or particularly a special pecuniary interest in the situation. For example, an APC member could be considered biased if they had made a previous commitment to vote in a particular way, regardless of what they learned about an application or a bylaw at an APC meeting.

Legislation

The BC *Local Government Act (LGA)*, enables a local government to establish one or more Advisory Planning Commissions (APC), pursuant to s. 898 of the *Local Government Act*, to advise it on matters respecting land use, community planning or specific types of proposed bylaws and permits related to land use.

While the LGA identifies a number of requirements regarding APCs, it is silent on the topics of conflict of interest and bias. However, the LGA indicates that in establishing an APC, a local government must adopt a bylaw which must, among other things, establish the 'procedures governing the conduct of the commission'.

[2] Wikipedia http://en.wikipedia.org/wiki/Conflict_of_interest
[3] See Islands Trust Council's generic Terms of Reference for Advisory Planning Commissions, also discussed later in this briefing
[4] Miriam Webster dictionary
[5] Oxford Concise dictionary
[6] Wikipedia

As noted in *BC Planning Law and Practice*[7]: '*During the deliberations of an APC on applications for bylaw amendments and permits, it is inevitable that … 'conflicts of interest' will arise; for example, an application might directly involve an APC member, or a professional members such as an architect may have even provided services to the applicant. Individual members' sense of fair play will usually prompt them to withdraw from the discussion of the commission's business in these circumstances. There is no reason that the council or board in enacting an APC bylaw…cannot adopt a code of conduct for such circumstances. The bylaw should place the onus on the member to withdraw voluntarily if they consider that they have a conflict of interest, and focus on the procedure to be followed, so that the commission's recommendation is not tainted by the private interest of one of its members'.* [8]

Where a local government has put a code of conduct in place for its APC or otherwise addressed procedures for handling conflicts of interest or bias, members must follow that code, along with any other procedures established in bylaw.

Case Law

While legislation is silent on both the topics of APC conflict of interest and bias, the topic of bias has most clearly been addressed by the courts.

In 1988, the Township of Richmond adopted a controversial OCP amendment related to land within the Agricultural Land Reserve. The Save Richmond Farmland Society (which was opposed to the bylaw) challenged the OCP bylaw in court under the *Judicial Review Procedure Act,* which enables the courts to overturn 'statutory decisions' of public bodies. A part of the challenge indicated that the court should quash the bylaw (make it invalid) because a member of a Richmond APC subcommittee was biased in regards to the rezoning (she was employed by the owner of the subject land, and did not vote on the actual APC recommendation). However, the court determined that it did not have the jurisdiction (under the *Judicial Review Procedure Act*) to set aside an APC recommendation because it was not the type of 'statutory decision' that was covered by this *Act*. The court noted, that regardless of the APC's advice, it was only the Township of Richmond that actually could make a 'statutory decision' regarding an OCP, and therefore the *Judicial Review Procedures Act* only applied to decisions of the local government itself.

While the *Save Richmond Farmland Society v. Richmond (Township)(1988)* decision indicated that the courts did not have jurisdiction over APC recommendations under the *Judicial Review Procedure Act*, this is not to say that a local government cannot or should not choose to set any standards for procedural fairness in APC bylaws, along with specific procedures to guide the way that APC members handle conflicts of interest or bias. Where such standards exist, they would apply regardless of this court decision.

Roberts Rules of Order

Robert's Rules of Order are a standard reference for meeting procedures, where other guidance does not exist, either in the form of legislation, case law or a bylaw.

Section 45 of Roberts Rules of Order Newly Revised (11th edition), indicates:

> *'No member should vote on a question in which he has a direct personal or pecuniary interest not common to other members of the organization.'*

[7] Buholzer. W. 2014 (with subscription updates). BC Planning Law and Practice. Lexis Nexis. Published in association with the Planning Institute of BC.

[8] In earlier discussions, Trustee Decario indicated she recalled a legal opinion on the topic of APC conflict of interest, that she thought may have differed from the legal advice received in regards to the APC on South Pender Island. Trustee Decario has since indicated that she had, in fact, been thinking of an excerpt from *BC Planning Law and Practice*, written by Bill Buholzer. The relevant excerpt is provided as Attachment 1 to this briefing for information of the Local Planning Commission. It provides further explanation of the *'Save Richmond Farmland Society v Richmond (Township)'* case and its relationship to APC conflict of interest and bias. The advice contained in this excerpt is consistent with the advice provided more recently regarding the South Pender Island APC.

Professional Organizations
If an APC member was a member of a professional organization, they would also have to consider guidelines of that organization. For example, the Architectural Institute of BC has guidelines for any of its members who may sit on a local government's Advisory Design Panel:

> *ADP members must disclose any involvement in an application being reviewed or any other personal or business relationship that might constitute or be perceived as a conflict of interest. In such instances, they must withdraw from that portion of the meeting and refrain from any statement, discussion or evaluation of the merits of that application or the parties to it.*

ADVISORY PLANNING COMMISSION GUIDANCE WITHIN THE ISLANDS TRUST AREA

Bylaws
Local Trust Committees and Bowen Island Municipality have all passed APC bylaws to establish APCs and to indicate the procedures they are to follow. These bylaws (all of which can be viewed on either the Islands Trust website, or the Bowen Island Municipality website) have been developed at different times, likely with varying degrees of legal review, and vary in their treatment of conflict of interest issues.

Some APC bylaws within the Islands Trust simply include a statement indicating that *"the Chairperson is to…ensure proper conduct of meetings in accordance with…the principles of procedural fairness"*. Bylaws may also indicate that the Chair is to *'rule on the existence of a conflict or potential conflict of interest of a member when requested to do so'*, while some LTC bylaws are silent on the topic of conflict of interest. The Salt Spring Island APC bylaw, which is the most recently amended (in May 2013), provides clearer guidance on the topic of conflict of interest, by indicating that the Local Trust Committee could consider terminating the appointment of a member who *'fails to declare a conflict of interest prior to a question being called during a Commission meeting'*.

APC Terms of Reference
In addition to individual APC bylaws, the Islands Trust Council has adopted Advisory Planning Commission Terms of Reference and Advisory Planning Commission Operating Procedures. The Salt Spring Island Local Trust Committee also has prepared specific Advisory Planning Commission Terms of Reference.

While these documents indicate the formality of APC procedures (for example, indicating that APC recommendations must be in the form of resolutions) they do not directly address the topics of conflict of interest and bias. However the Terms of Reference indicate that:

> *'the APC should take into account the interests of the community at large when making recommendations'*.

The Salt Spring Island APC Terms of Reference provide more detail on conflict of interest, stating:

> *If an Advisory Planning Commission member believes they may have a direct or indirect conflict of interest, the member must declare this, state in general terms why this is believed to be the case, and remove them self from the meeting. APC members are encouraged to discuss and receive advice from Islands Trust staff if they believe they may have a potential conflict of interest.*

Guidelines and Orientation Materials

While APC members receive a variety of orientation materials (including relevant Bylaws and Terms of Reference, including the Trust Council documents noted above), in most cases, they receive little written material or guidance that specifically discuss Conflicts of Interest or bias.

Staff have developed draft Guidelines for APC members that are still in discussion (see Attachment 2) and will be considered by the Executive Committee at a later date[9]. Once finalized, these Guidelines could provide for more certainty about the topic, even in the absence of specific bylaw amendments or Terms of Reference. The draft Guidelines are intended to be helpful regardless of the content of individual APC bylaws.

Discussion

While basic principles of procedural fairness indicate that those with a direct personal interest in a matter should not vote on it,[10] most APC bylaws used by LTCs leave a significant amount of ambiguity as to the procedures to be followed in the event of a conflict of interest or bias on the part of an APC member. In practice, APC Chairs likely have varying degrees of knowledge about such principles. An APC Chair may not even be aware of another APC member's interests or biases, and APC bylaws within the Islands Trust Area (with the exception of Salt Spring's), do not require such disclosure. While, in staff's experience, APC members with a personal pecuniary interest in a matter referred to an APC (i.e. if an application or proposed bylaw change directly involves an APC member in a personal financial way) will often voluntarily recuse themselves, there are few clear guidelines about the procedures to be followed.

Clearer guidelines about these topics, combined with better information about how to recognize conflicts of interests or biases and clear procedures for managing them would assist APC members, reduce the opportunity for misunderstanding and provide greater assurance that APC meetings are indeed carried out in a procedurally fair manner.

ADVISORY PLANNING COMMISSION GUIDANCE IN BC

Local governments in BC have adopted APC bylaws and other guidelines with various types of procedures in regards to conflict of interest and bias matters. Like LTC bylaws, some are silent on the topic, providing little guidance for APC members. However, some local governments have provided more detailed guidance and in some cases, specific procedures to follow. Recent and relatively typical examples of APC bylaws with specific procedural guidance are noted in Table 1.

TABLE 1
SELECTED ADVISORY PLANNING COMMISSION BYLAWS
BC LOCAL GOVERNMENTS[11]

Local Government	Guidelines and/or procedures respecting APC members with a conflict of interest and/or bias	Comments
Capital Regional District Bylaw 2945	***Conflict of Interest*** *means when a Commission Member has a direct or indirect pecuniary interest in the matter or any other reason;* *Where any member of the Commission considers that they are not entitled to participate in the discussion of a matter or to vote on a question in respect of that matter, the member must declare this and state the general nature of why the member considers this to be the case. After making this declaration the member must not take part in either the discussions or vote on any question in respect to*	This bylaw (which guides six APCs within small communities in the Juan de Fuca Electoral Area) applies similar procedures to APC members as are found in the BC *Community Charter* in

[9] The Executive Committee work program includes the development of potential amendments to Trust Council's policy regarding access to legal advice, to include more formal procedures for providing legal advice to APC members. The draft Guidelines are intended to reflect current practices in this regard.
[10] Roberts Rule of Order Newly Revised. 11th Edition. S. 45
[11] These examples have been selected on the basis that they are typical of recently drafted APC bylaws in BC, include relatively clear guidelines regarding conflict of interest and/or they pertain to APCs in small communities somewhat similar to those in the Islands Trust Area.

Local Government	Guidelines and/or procedures respecting APC members with a conflict of interest and/or bias	Comments
	this matter. The member must also leave the meeting or special meeting or part of the meeting or special meeting during which the matter is under consideration. The Commission Secretary must record the member's declaration, the reasons given and the time that the member departed from the meeting or the special meeting and if applicable the member's return. If after the meeting or special meeting the Commission member is deemed to be in a conflict of interest position, by the Board, and has voted on the question, their vote will not be counted in the affirmative or the negative and the Board has the option to remove the Commission member immediately and reappoint a new Commission member.	regards to elected officials. The bylaw also indicates how the regional district board may respond, should an APC member vote on a matter when they are in a conflict of interest position.
Comox Valley Regional District APC Guide (includes Bylaw 36)	*APC Bylaw: As a condition of appointment, each member shall acknowledge in writing his or her obligations under this bylaw, the bylaws of the regional district, and all applicable provisions of the Community Charter and Local Government Act, including but not limited to the conflict of interest requirements contained in division 6 of the Community Charter…* *APC Guide: members must be aware of real or perceived conflicts of interest during their discussions. As a public official, APC members are subject to the same rules of ethical conduct as municipal councillors or electoral area directors and therefore must excuse themselves from meetings when that member has a direct or indirect pecuniary interest in a matter under consideration. A member must also declare a conflict if he or she has some other, non-pecuniary type of interest that places the person in a conflict position. The Ministry of Community Services provides further detail about ethical conduct and conflict of interest on its website at:* http://www.cserv.gov.bc.ca/lgd/gov_structure/community_charter/governance/ethical_conduct.htm. A membership statement is included in appendix 'G' and is required annually by all APC members.	This bylaw (which guides three APCs in small Electoral Areas within the Comox Valley RD) applies similar procedures to APC members as are found in the BC *Community Charter* in regards to elected officials. The bylaw includes an APC Membership Statement that all APC members must sign, indicating their commitment to follow conflict of interest requirements in the *Community Charter*. The companion 'APC Guide' provides more details about the reasons for the bylaw's provisions and advice about where to find additional information.
City of Kelowna Bylaw 8546	*11.1 If a **Commission** member attending a meeting of the **Commission** considers that he or she is not entitled to participate in the discussion of a matter or to vote on a question in respect of a matter because the **Commission** member has a direct or indirect pecuniary interest in the matter or for any other reason, the member must declare this and state the general nature of why the member considers this to be the case.* *11.2 After making the declaration in accordance with section 9.1, the **Commission** member* *(a) must not take part in the discussion of the matter and is not entitled to vote on any question in respect of the matter,* *(b) must immediately leave the meeting or that part of the meeting during which the matter is under consideration, and* *(c) must not attempt in any way, whether before, during or after the meeting, to influence the voting on any question in respect of the matter.* *11.3 When the **Commission** member's declaration is made under section 11.1* *(a) the person recording the minutes of the meeting must record the member's declaration, the reasons given for it, and the times of the member's departure from the meeting room, and if applicable, the member's return, and* *(b) the person presiding at the meeting must ensure that the member is not present at the meeting at the time of any vote on the matter.*	This bylaw applies similar procedures to APC members as are found in the BC *Community Charter* in regards to elected officials. It provides more detailed procedures to be followed in such circumstances, than are provided in the previous two examples.
Parksville Bylaw 1470	*A member who has a direct or indirect pecuniary interest in a matter being dealt with at a meeting must:* *(a) declare this and immediately leave the meeting or that part of the meeting during which the matter is under consideration; and* *(b) not attempt in any way before, during, or after the meeting, to influence the voting on any question concerning the matter.* *(2) Subsection (1) does not apply to a pecuniary interest that is in common with electors of the City generally or is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member in relation to the matter.*	This bylaw applies similar procedures to APC members as are found in the BC *Community Charter* in regards to elected officials, but only in regards to pecuniary conflicts of interest. This differs from the procedures for elected officials, who must also declare if they have 'another interest in the matter that constitutes a conflict of interest'

Local Government	Guidelines and/or procedures respecting APC members with a conflict of interest and/or bias	Comments
Richmond Advisory Committee on the Environment	*Members must not have a conflict of interest with Council or the ACE and should advise members when a potential conflict may exist on a specific issue and recuse themselves for the duration of the discussions on the issue to which they have declared a conflict of interest*	These Terms of Reference for the Richmond Advisory Committee on the Environment indicate that members must recuse themselves during discussions (and presumably a vote), when they have a conflict of interest. They are not as clear regarding actual procedures, leaving some room for doubt.

OPTIONS FOR ADDRESSING CONFLICT OF INTEREST IN AN APC BYLAW

Given that the Local Planning Committee has been tasked by Trust Council with developing a model Advisory Planning Commission bylaw (which would cover many different aspects of APC procedures, in addition to conflict of interest), it will be important for the Committee to consider how the topics of conflict of interest and bias should be addressed in such a model.

Table 2 identifies some potential objectives in addressing APC conflict of interest and some options that the Local Planning Committee may wish to consider, in developing model language about the topic.

Local Planning Committee members may also wish to review and consider some helpful advice contained in the following documents (also previously referenced), prepared by the Organisation for Economic Cooperation and Development (OECD - of which Canada is a member country), which call for high standards in the management of conflict of interest in the public sector:

Guidelines for Managing Conflict of Interest in the Public Sector

Managing Conflict of Interest in the Public Sector – A Toolkit

Further information is also available on the related website.

TABLE 2
Objectives and Options for Addressing Conflict of Interest and Bias in a Model APC Bylaw

OBJECTIVES →	Legal	Procedural Fairness[12]	Transparent re COIs	Enables a Participation by all APC members[13]	Clarity	Examples from other local govs	Comments
How each option is measured against each objective →	Whether the option complies with legislation and case law[14]	Whether an APC member must abstain from voting on matters in which they have a direct personal interest	Whether any type of APC member conflict of interest is transparent to all parties	Whether all APC members can participate in providing recommendations most of the time	Whether APC members have clear guidelines to follow when a conflict of interest situation arises		
OPTIONS ↓							
1. APC bylaw indicates that members ARE NOT REQUIRED to declare any form of COI and MAY PARTICIPATE AND VOTE on related recommendations	Y	VL	VL	VH	H	None known	This option would enable all APC members to participate in making recommendations, even if they had undeclared personal pecuniary COIs. As there would be no responsibility for an APC member to declare a COI, conflicts could remain unknown to all parties, including the LTC.
2. APC bylaw indicates that members ARE REQUIRED TO DECLARE all forms of COIs, but MAY PARTICIPATE in related discussions AND VOTE on related recommendations	Y	VL	H	VH	H	None known	While this option has a low rating of procedural fairness, it is more transparent that Option 1, where COIs do not have to be declared. In this option, the LTC would be aware of the COI when considering the APC's recommendations and could take it into account.
3. APC bylaw indicates that the Chair is responsible for procedural fairness. Other policies state that recommendations are to be in the interest of the broader community, which suggests they shouldn't be influenced by those with a personal interest in the matter. No procedures are provided for declaring a COI and no consequences for failure to declare at COI. (This option represents the Status Quo for several LTCs.)	Y	M (may vary – see comments)	M (may vary – see comments)	H (may vary – see comments)	L	Most current LTC APC bylaws e.g. Gabriola South Pender	In this option, the APC bylaw does not clearly articulate what constitutes 'procedural fairness', so it relies on the Chair's and other members' understanding of the topic. The bylaw does not indicate what the responsibilities and procedures are for individual members who have a COI. If a member does not declare a COI, the Chair may not be aware of it and therefore cannot ensure 'procedural fairness'.
4. APC bylaw indicates that members ARE REQUIRED TO	Y	ML	H	VH	H	None known	As with Option 2, the LTC would be aware of an

[12] While there has been some question about whether conflict of interest guidelines should apply to 'recommendation-makers', available guidelines for advisory bodies suggest that they should – i.e. that particularly those with a personal pecuniary interest should not be part of a decision-making processes in any official capacity, either as decision-makers, advisory staff or in any official capacity that influences decision-makers. This is consistent with *Robert's Rules of Order* , with the OECD's toolkit *Managing Conflict of Interest in the Public Sector – A Toolkit* , and with guidelines developed by professional organizations whose members may sit on advisory bodies (e.g. Architectural Institute of BC guidelines for members on Advisory Design Panels)

[13] It should be noted that, even if an APC bylaw prevents members from participating in APC recommendations when they have a personal pecuniary conflict of interest, there is nothing to prevent them from appearing before the LTC to make representations as an individual.

[14] It is important to note that all of the options presented comply with BC legislation and case law; although case law arising from a judicial review in the *Save Richmond Farmland Society v. Richmond (Township)(1988)* case indicates that APC members could participate in meetings when they have a bias, it does not suggest that this is a best practice, and does not limit local governments from adopting APC procedure bylaws that establish a higher standard of procedural fairness. See Attachment 1 for further discussion of this topic.

OBJECTIVES →	Legal	Procedural Fairness[12]	Transparent re COIs	Enables a Participation by all APC members[13]	Clarity	Examples from other local govs	Comments
How each option is measured against each objective →	Whether the option complies with legislation and case law[14]	Whether an APC member must abstain from voting on matters in which they have a direct personal interest	Whether any type of APC member conflict of interest is transparent to all parties	Whether all APC members can participate in providing recommendations most of the time	Whether APC members have clear guidelines to follow when a conflict of interest situation arises		
DECLARE both pecuniary and non-pecuniary COIs, and MAY PARTICIPATE in discussion, provided that they MAY NOT VOTE on related recommendations.							APC member's conflict of interest when considering the APC's recommendations. The difference from Option 2 is that an APC member with a conflict of interest would be free to influence other members, but could NOT vote on the final APC recommendation.
5. APC bylaw indicates that members are REQUIRED TO DECLARE personal pecuniary conflicts. After such a declaration, they MAY NOT PARTICIPATE in or influence discussion and MAY NOT VOTE on related recommendations. Procedures may be provided for members with COIs, such as requiring declarations and providing procedures for leaving a meeting. Consequences for non-compliance are included in the bylaw.	Y	H	H	H	H	Parksville	In this option, an APC member who has a personal pecuniary COI must follow the same rules that elected official must follow under the Community Charter. However, the bylaw does not appear to apply these rules to APC members with non-pecuniary conflicts of interest (or bias). This means that an APC member with a non-pecuniary conflict (e.g. is a relative of the applicant, but not financially dependent upon them) or a bias (closed mind) is not explicitly prevented from participating and voting on APC matters.
APC bylaw indicates that members are REQUIRED TO DECLARE both personal pecuniary conflicts and other types of conflicts. After such a declaration, they MAY NOT PARTICIPATE in or influence discussion and MAY NOT VOTE on related recommendations. Procedures may be provided for members with COIs, such as requiring declarations and providing procedures for leaving a meeting. Responses and/or consequences for non-compliance are included in the bylaw	Y	VH	VH	MH	H	Salt Spring Island (in combo with Terms of Reference) Capital Regional District, Comox Valley Regional District, City of Kelowna	In this option, an APC member who has either a personal pecuniary COI or a non-pecuniary COI must follow the same rules that elected officials must follow in such situations. Depending on the situation, an APC bylaw may specify consequences, such as discounting the vote of an APC member (CRD bylaw) or removal of an APC member. While this option is more likely to remove APC members from discussions and votes, it has the highest rating for procedural fairness, in that no one with any form of COI would participate in LTC decision-making processes.

Abbreviations and Color Codes (indicating the estimated degree to which an option supports each of the identified objectives):

VH = Very High	Y = Yes; H = High	M = Medium	ML = Medium Low	L= Low	VL = Very Low

ATTACHMENT(S):

1. Excerpt from *BC Planning Law and Practice* (by W. Buholzer) re APC Conflict of Interest and Bias
2. Discussion Draft – *Advisory Groups, Conflict of Interest and Bias*

AVAILABLE OPTIONS:

1. Local Planning Committee to determine which treatment(s) for APC conflict of interest and bias should be included when a model APC bylaw is prepared.
2. Local Planning Committee to seek further legal advice or input on the topic of APC conflict of interest and bias.
3. Local Planning Committee to provide input into draft 'Guidelines for APC members regarding Conflict of Interest' and advise the Executive Committee regarding any recommended amendments and further steps in the circulation of the guidelines.

FOLLOW-UP:
To be determined by Local Planning Committee

Prepared By: Linda Adams, CAO

Reviewed By/Date: David Marlor, Director of Local Planning Services / May 2014
Carmen Thiel, Legislative Services Manager / May 2014

BRITISH COLUMBIA PLANNING LAW AND PRACTICE

William Buholzer M.A. (Planning), LL.B.

In association with the
Planning Institute of British Columbia





consider the recommendations of its town planning advisory board before making decisions on applications for minor variances. After the council approved a variance without having before it a proper recommendation from the advisory board, it entered into development agreements with the developer and issued development and building permits, and the provincial government issued a development certificate for the project in question. The court held each of these approvals to be void because of the lack of a recommendation from the town planning advisory board. This case highlights the problems that can result from establishment of a mandatory referral to an advisory planning commission.

1 *Sobey's Inc. v. Charlottetown (City)* (1996), 31 M.P.L.R. (2d) 254 (Prince Edward Island Supreme Court).

§15.12 An APC bylaw should never oblige the council or board to follow the APC's advice, as this would amount to an unlawful delegation to the commission of the council's or board's ultimate decision-making power.

F. CONFLICTS OF INTEREST AND BIAS

1. CONFLICTS OF INTEREST

§15.13 The *Local Government Act* includes detailed rules for the conduct of council and regional board members who find themselves in a "conflict of interest" situation. Such situations occur relatively frequently where planning and land use matters are concerned, and the question arises whether similar rules should apply to the conduct of APC members. The *Local Government Act* is silent on the point.

§15.14 At common law, a "conflict of interest" exists when a person in public office has a special, private interest in a matter on which they are called upon to make a decision in their public capacity. Recognizing that it is impossible for a person in such circumstances to "serve two masters", the common law requires that the official refrain from exercising their public duties with respect to the matter. Under s. 100 of the *Community Charter*, a council or board member who has a special private interest in a matter must declare their interest at the meeting when the matter comes up, leave the meeting, and refrain from participating in the discussion of or influencing the vote on the matter. If they fail to do so they may be disqualified from holding office, and the council's or board's vote on the matter may be jeopardized. In practice, the decision on whether to make a declaration of interest and leave a meeting is up to the individual councilor

or director involved; neither the mayor or chair of the board, nor the members collectively, can properly force a member to retire from discussion or voting on a matter on account of an alleged private interest.

§15.15 During the deliberations of an APC on applications for bylaw amendments and permits, it is inevitable that similar "conflicts of interest" will arise; for example, an application might directly involve an APC member, or a professional member such as an architect may have even provided services to the applicant.[1] Individual members' sense of fair play will usually prompt them to withdraw from the discussion of the commission's business in these circumstances. There is no reason that the council or board in enacting the APC bylaw, or the APC members themselves if they have been given authority under the bylaw to make their own procedural rules, cannot adopt a code of conduct for such circumstances. The bylaw should place the onus on the member to withdraw voluntarily if they consider that they have a conflict of interest, and focus on the procedure to be followed, so that the commission's recommendation will not be tainted by the private interest of one of its members.

1 In *Reid v. Sunshine Coast Regional District*, unreported (February 2, 1990, New Westminster No. A891766, B.C. Supreme Court, Hinds J.) petitioners attempting to have a zoning amendment bylaw set aside unsuccessfully alleged that the bylaw had, improperly, not been referred to the advisory planning commission for advice to the regional board. Noting that both the rezoning applicant and his real estate agent were members of the commission, the court observed that they would have been in a conflict of interest if the bylaw had been referred to it and if they had participated in discussions leading to a recommendation to the board. The absence of a referral of this bylaw to the commission was, in the court's view, "understandable" in these circumstances.

2. BIAS

§15.16 Even though a member of an APC may not have a special private interest in a particular matter that comes before it, it might still be alleged that they ought not to participate in discussion of the matter on account of some bias on their part against applications of that nature. For example, if the matter is the amendment of the official community plan to designate an ecologically sensitive area, and one of the commission members is a member of a local environmental group, the owner of the land affected might be inclined to doubt that that member will approach the matter with an open mind. The B.C. Supreme Court dealt with such a case in 1988,[1] and in so doing established that there is no rule that the members of an APC must have an "open mind" in matters that come before them, as there is

with respect to members of a council or regional board at a statutory public hearing.

[1] *Save Richmond Farmland Society v. Richmond (Township)* (1988), 36 Admin. L.R. 45 (B.C. Supreme Court).

§15.17 The 1988 case rose from the application to remove the Terra Nova lands in Richmond from the Agricultural Land Reserve. Richmond's Advisory Planning Commission recommended the removal and the associated OCP amendment; one of the members of the commission was employed by the owner of a large portion of the lands and, while she did not vote on the recommendations, she participated in a small sub-committee of the commission that considered the matter and reported to the commission recommending the removal of the land from the Reserve. The Society sought judicial review of the APC resolutions, the OCP amendment and the consequent provincial Order-in-Council removing the lands from the Reserve, on the grounds of bias in the APC. The court acknowledged the special interests of the members of the commission, noting that the Council made a conscious decision to appoint members to represent both geographical areas of the community and special interest groups and that the APC member who was alleged to be biased had been appointed to represent the development industry. The court refused to set aside the recommendation of the APC, because the rule of procedural fairness requiring an unbiased decision-maker did not apply to Advisory Planning Commissions, which do not make decisions but merely advise.

G. JUDICIAL REVIEW OF COMMISSION DECISIONS

§15.18 The *Judicial Review Procedure Act* provides an avenue for attacking in the courts the decisions of public bodies that exercise a "statutory power of decision"; this procedure is discussed generally in Chapter 2. The decisions of advisory commissions are not, as a general rule, subject to review by the courts on "procedural fairness" grounds, as are the decisions of municipal councils and regional boards. In the *Terra Nova* case referred to in the previous section,[1] the B.C. Supreme Court held that it had no jurisdiction to set aside a recommendation of an Advisory Planning Commission under the *Judicial Review Procedure Act* because the recommendation is not a "decision". The Court's reasoning was as follows:

> Section [898 of the *Local Government Act*] authorizes a council to establish an advisory planning commission "to advise" it on matters respecting land use, community planning, etc. That advisory function, as opposed to a regulatory or legislative one such as resides in the council itself, is crucial to the outcome of the attack which the petitioners make on the decisions of the Advisory Planning

> Commission to recommend to Council the adoption of the draft Official Community Plan (Bylaw 4700) and the application to exclude lands (seven areas in all, including Terra Nova) from the Agricultural Land Reserve.
>
> ...
>
> The respondents submit that the principle [of procedural fairness] does not apply to the Advisory Planning Commission, which exercises no statutory power of decision.... It is merely an advisory body, the members of which are appointed by Council with a view to their respective special interests being thus represented. The weight which Council decides to give to their advice is a matter for Council to determine. I accept that argument. The law respecting judicial review regards advisory functions in a much different light than adjudicative ones.
>
> ...
>
> It is the Council itself which exercised the statutory power of decision. Bylaw 4700 is a legislative enactment of Richmond Council concerned with broad policy and applicable to a wide range of lands and issues of which Terra Nova is only a part. I agree with the submission of Richmond that where Council is acting legislatively on general policy matters, then subject only to compliance with the procedural requirements of the enabling legislation, the rules of natural justice have limited application. An apprehended bias in a mere advisory body once removed can have no effect.

[1] *Save Richmond Farmland Society v. Richmond (Township)* (1988), 36 Admin L.R. 45 (B.C. Supreme Court).

§15.19 This principle applies to all advisory bodies, such as community heritage commissions, that may be appointed to advise land use regulatory authorities. The Court concluded that the rules of procedural fairness have "limited application" and not that they have no application at all. This leaves room, for example, for the operation of the rule that one cannot be a judge in one's own cause, and that a member of a commission must therefore withdraw from discussion of a matter in respect of which they have a conflict of interest. Where the commission is exercising delegated decision-making power, as commissions appointed under s. 154 of the *Community Charter* may be authorized to do, the *Judicial Review Procedure Act* and the rules of procedural fairness will apply more fully.[1]

[1] The design review panel appointed under the *New Westminster Redevelopment Act*, S.B.C. 1989, c. 34 may specify conditions on various matters when it reviews developments proposed in the special development area established under that statute, and those conditions are automatically imposed on the owner as development permit conditions. This is a rare example of a design review panel exercising a decision-making power, which would likely have to be exercised in accordance with the rules of procedural fairness.

Advisory Groups[1], Conflict of Interest and Bias

Guidelines for Members of Advisory Groups at the Islands Trust - DRAFT

1. What is a Conflict of Interest?

As noted in *Managing Conflict of Interest in the Public Sector*[2]*,* a Conflict of Interest arises "*when a public official has private-capacity interests which* ***could*** *improperly influence the performance of their official duties and responsibilities".* It is important to remember that there is nothing improper with having a Conflict of Interest, provided it is managed properly and does not result in any improper actions.

2. Do Conflict of Interest rules 'apply' to Advisory Planning Commission members?

Under the BC *Community Charter*, an elected person (i.e. a trustee) who has a special private interest in a topic under consideration must declare their interest when the topic comes up, leave the meeting and not participate in the discussion or attempt to influence the vote in any way. If trustees do not follow these rules, they could be disqualified from office and the local trust committee's vote on a bylaw or application could be jeopardized. In extreme cases, an elected official could be required to pay back any financial gains they may have realized, if they improperly voted on a matter in which they have a Conflict of Interest.

While this legislation does not apply to members of advisory bodies that make recommendations to local trust committees, it is inevitable that similar 'Conflicts of Interest' situations arise, related to the topics that local trust committees refer to their advisory bodies. For example, an APC member could be the applicant for a rezoning; or an APC member, such as an engineer or architect, could have provided professional services in preparing the application. Where a Conflict of Interest situation arises, it is important that the APC member manage it carefully. To do otherwise can undermine the integrity of the APC's recommendations, and public confidence that the APC is acting on behalf of the community. [3]

[1] While these guidelines refer to Advisory Planning Commissions for simplicity, the advice is also relevant to other formal advisory groups that make formal recommendations to local trust committees

[2] Whitton, H. 2005. *Managing Conflict of Interest in the Public Sector – A Toolkit*. Published by the Organisation for Economic Co-operation and Development.

[3] *Managing Conflict of Interest in the Public Sector – A Toolkit* suggests that Conflict of Interest guidelines should apply to '*public servants, civil servants, public employees, elected officials or any other kind of official who performs public functions or duties on*

While some local trust committee bylaws[4] and/or APC Terms of Reference within the Islands Trust Area have been updated to provide some guidance to APC members in handling Conflict of Interest situations, other bylaws are silent on the topic, or give the Chair the responsibility to 'rule' on Conflicts of Interest (if asked) and/or to ensure the meeting is conducted in accordance with the principles of procedural fairness. Where an APC bylaw or Terms of Reference are silent on the topic, *Roberts Rules of Order* can be referred to. They include a general principle[5] that members of groups should not vote on questions where they have a direct personal or pecuniary interest.

This guide has been written to help APC members, including Chairs, to handle situations where Conflicts of Interest or bias may arise. The overall objective is to ensure that APC meetings are handled in a manner that is (and is seen to be) procedurally fair, for APC members, development applicants and for community members.

3. What is the difference between a pecuniary Conflict of Interest and a non-pecuniary Conflict of Interest?

If a Conflict of Interest involves money, it is a **pecuniary** interest. As noted in Stewart McDannold Stuart's publication for local governments,[6] *'**pecuniary** interests most frequently arise in relation to property, business interests, employment relationships, professional/client relationships, and spousal employment interests. **Non pecuniary** interests may arise in relationship to family relationships where there is no pecuniary interest involved (children, siblings, parents) and relationships with other organizations like not-for-profit societies, church congregations or community groups'.*

4. What is a personal Conflict of Interest?

A *personal* Conflict of Interest is one that is not shared with others, or shared with only a few others. For example, an APC member might stand to gain if a land use bylaw is amended to permit secondary suites on an island, or an expanded range of home-based businesses. However, if such a bylaw amendment would affect everyone else with similar properties (or a large part of the community), this would not be a *personal* Conflict of Interest. Concerns about Conflicts of Interest focus on matters that are *personal* to the individual, not on ones that are broadly shared with the community or a large sector of it.

5. What are some examples of a personal pecuniary Conflict of Interest that an APC member might face?

An APC member would have a *personal pecuniary* Conflict of Interest if the APC was asked to make recommendations regarding the following situations, or similar ones:

- An application where the APC member is the owner or tenant of the subject property.

behalf of… government'. It notes that *'public officials should make decisions and provide advice on the basis of relevant law and policy and the merits of each case, without regard for personal gain'*.

[4] See Salt Spring Island Advisory Planning Commission Bylaw 467 and Term of Reference

[5] Robert's Rules of Order Newly Revised. 11th Edition.s.45

[6] Stewart, C. 2012. *A guide for municipal council members and regional directors in British Columbia under the Community Charter and Local Government Act*. Stewart McDannold Stuart. January 5, 2012. Victoria, BC.

- An application where the APC member has worked for the owner (or tenant) to prepare or present the application.
- An application where the APC member is an employee of the property owner or an employee of someone who worked to prepare or present the application.
- An application where the APC member is a neighbour of the subject property and whose property value is likely to be affected by the outcome of the application[7]
- An application where the APC member was on the board of the corporation or community group making a land use application[8].
- A land use bylaw amendment that would legalize an existing non-conforming or unlawful land use or structure, if the APC member was the only one (or one of few) in the community in that situation.

6. What are some examples of a non-pecuniary personal Conflict of Interest that an APC member might face?

An APC member would have a *non-pecuniary personal* Conflict of Interest if the APC was asked to make recommendations in the following situations, or similar ones:

- An application where the APC member is a close relative, friend or business associate of the owner or tenant of the subject property
- An application where the APC member is a close relative, friend or business associate of someone who prepared or presented the application.

7. Is there anything wrong with having a Conflict of Interest?

While sometimes misunderstood, it is important to recognize that Conflicts of Interest are relatively common and often unavoidable, particularly in small communities. They can be particularly common among active community members who volunteer their time in many different ways. Having a Conflict of Interest (COI) is not, in itself, an ethical problem, provided it is identified and managed appropriately. As noted by Dr. Chris MacDonald (Ethics Consultant):

It is crucial to see that a COI is a situation, not an accusation. Being in a COI is not the same as being corrupt, and pointing out that someone is in a COI is not the same as accusing them of bias or lack of integrity. A COI, if not dealt with properly, may leave doubt *about the objectivity of a particular decision-making process.*

Further background information is provided here:

[7] Case law indicates that, particularly neighbours who are eligible to receive public notices about an application would be considered to have an 'interest' in the matter. However, an APC member who felt that their property value would be changed, either positively or negatively by a decision, would have a Conflict of Interest regarding the matter, if this applied to them in a way that didn't affect the broader community.

[8] This would not apply if the APC member was simply a 'rank and file' member of organization, with no decision-making or leadership role.

The presence of a Conflict of Interest is independent of the occurrence of impropriety. Therefore, a conflict of interest can be discovered and voluntarily defused before any corruption occurs. A widely used definition is: "A conflict of interest is a set of circumstances that creates a risk that professional judgment or actions regarding a primary interest will be unduly influenced by a secondary interest." Primary interest refers to the principal goals of the profession or activity, such as the protection of clients, the health of patients, the integrity of research, and the duties of public office. Secondary interest includes not only financial gain but also such motives as the desire for professional advancement and the wish to do favours for family and friends, but conflict of interest rules usually focus on financial relationships because they are relatively more objective, fungible, and quantifiable. The secondary interests are not treated as wrong in themselves, but become objectionable when they are believed to have greater weight than the primary interests. The conflict in a conflict of interest exists whether or not a particular individual is actually influenced by the secondary interest. It exists if the circumstances are reasonably believed (on the basis of past experience and objective evidence) to create a risk that decisions may be unduly influenced by secondary interests.[9]

8. What should I do if I believe I have (or might have) a Conflict of Interest?

If you believe you have a Conflict of Interest, check your APC bylaw or Terms of Reference to see if there are specific procedures to follow. Even if there are no specific guidelines in these documents, *Roberts Rules of Order* suggest that those who have a personal or pecuniary interest in a situation should not be involved in decisions about that topic (including decisions about what recommendations to provide).

If you believe you have a Conflict of Interest in regards to a specific matter that has been referred to your APC for consideration, the easiest way to manage the situation properly is to: [10]

- Disclose the Conflict of Interest to members of the APC as soon as you become aware of it.
- Leave the meeting before the discussion of the issue begins, in order to avoid any possibility of influencing the debate or the vote and in order to avoid making it awkward for other members to speak fully in the discussion.
- Avoid any overt or covert attempt to influence the decision in any way, whether at the meeting or outside the meeting.
- Return to the meeting when the APC proceeds to the next agenda item
- Ensure that your coming and going from the meeting is accurately recorded in the APC minutes.[11]

It is not necessary to resign from the APC, provided the Conflict of Interest situation is related to a single matter that the APC is asked to consider, or one that may only come up infrequently during your term. If for some reason, personal Conflict of Interest situations continually arise for you, you may wish to consider whether you can fulfil the role of an APC member effectively.

[9] Wikipedia http://en.wikipedia.org/wiki/Conflict_of_interest

[10] These guidelines are based on those provided in: Mina, E. 2009. *101 Boardroom Problems and How to Solve Them*. Published by American Management Association

[11] The *Islands Trust Minutes Guidelines*, used by all minute takers, include directions about this topic

9. What should I do if I think someone else on the APC has a Conflict of Interest and doesn't recognize it?

Best practices for managing Conflicts of Interest suggest that it is important to create a climate where everyone can express valid concerns about Conflict of Interest. Nevertheless, it is also important to recognize that publicity about high profile Conflict of Interest situations may have left some with the impression that a Conflict of Interest is, in itself, some sort of ethical breach, even if properly managed. And, it can be difficult for even the most well-meaning individual to recognize Conflict of Interest situations that may arise for them, particularly if there is little notice that a topic is going to be discussed. For these reasons, concerns about Conflict of Interest on the part of others should be approached carefully and respectfully, and not in a way that suggests any impropriety on the part of others. If you feel comfortable mentioning your thoughts to the person affected, then do so privately and recommend they seek further advice if questions remain (see contacts in Section 17). If you don't feel comfortable approaching the other person, please seek advice, preferably in consultation with the APC Chair to resolve the situation. If you feel a Conflict of Interest situation is going unresolved, it is better to address it proactively than to ignore it.

10. What should I do if someone else says I have a Conflict of Interest?

First of all, don't get angry or defensive! As noted in *101 Boardroom Problems and How to Solve Them*[12], *'when individuals react defensively to suggestions of conflict of interest, it becomes difficult for others to express valid concerns'*. As there is nothing wrong with a having a Conflict of Interest, and it may be difficult for you identify such a situation, it is best to carefully consider another person's perspective and seek further advice, if you are in any doubt. As noted above, a Conflict of Interest situation could exist whether or not you are actually influenced by any secondary interests you may have. A Conflict of Interest exists if the circumstances create a *risk* that your decisions and advice at the APC could be unduly influenced by your secondary interests.

11. What are the consequences for an APC member with a Conflict of Interest, if they continue to participate in developing recommendations related to a topic referred to the APC?

Unlike the situation for elected officials, there are no legal consequences for APC members who participate in developing recommendations related a matter in which they have a Conflict of Interest. However, there can be risks to an individual's reputation if they continue to participate in providing advice about a topic despite a Conflict of Interest, or an apparent Conflict of Interest. There can also be risks to the APC's reputation and the public's trust in its advice.

Some local government APC bylaws provide for potential termination of an APC member's appointment, if the member participated in discussions where they have a Conflict of Interest. To date, Salt Spring Island APC Bylaw 467 is the only one within the Islands Trust Area that makes formal reference to this potential outcome.

[12] See reference 10

For APC members who are also members of professional organizations, there may be consequences that arise from that organization's bylaws, codes of ethics or other guidelines. For example, the Code of Ethics for the Architectural Institute of BC indicates that members cannot participate in Advisory Design Panels when they have a Conflict of Interest regarding an application being considered. If you are a member of a professional organization, you should check with it to find out if there are any guidelines or codes of ethics that you must be aware of.

12. What are the consequences for an LTC if an APC member with a Conflict of Interest or a bias continues to participate in developing recommendations related to a topic referred to the APC?

If APC members with Conflicts of Interest routinely participate in the development of advice about land use planning matters, there are risks to the reputation of the local trust committee and public trust in the integrity of its decisions.

13. What responsibilities does an APC Chair have in regards to Conflict of Interest?

Within the Islands Trust Area, APC bylaws vary as to the Chair's responsibilities regarding Conflict of Interest. For example, some bylaws indicate that the Chair is responsible for conducting meetings in accordance with the 'principles of procedural fairness' (which indicate those with a personal or pecuniary interest in a matter should not vote on it), or for 'ruling on the existence of a conflict or potential Conflict of Interest of a member when requested to do so'.

Chairs should refer to their APC bylaw and Terms of Reference for advice. If these documents are silent on the topic, then Roberts Rules of Order should be followed (i.e. that those with a direct personal or pecuniary interest in a matter should not vote on that matter). As a Chair may not be aware of every member's personal interests, it is a good practice for Chairs to remind APC members periodically that they should declare any Conflicts of Interest they may have.

Chairs can contact Islands Trust staff (see Section 17), if they need more detailed advice in managing a Conflict of Interest situation. Where an APC member declares a Conflict of Interest and leaves a part of the meeting, the Chair should ensure that this has been properly recorded in the APC meeting minutes.

14. What is Bias?

Some definitions of Bias include:

> *'a tendency to believe that some people, ideas, etc., are better than others that usually results in treating some people unfairly'*[13]
>
> *'a predisposition or prejudice'*[14]
>
> ***'****an inclination of temperament or outlook to present or hold a partial perspective and a refusal to even consider the possible merits of alternative points of view. People may be biased toward or against an individual, a race, a religion, a social class, or a political party. Biased means one-sided, lacking a neutral viewpoint, not having an open mind'.*[15]

[13] Miriam Webster dictionary
[14] Oxford Concise dictionary

15. What are some examples where an APC member might be biased?

It is important to remember that an APC member would not be considered 'biased' if they simply have a point-of-view or a known 'leaning' – for example, in favor of marine conservation or local food production. However, they could be considered biased in the following situations:

- As a member of another community group, they had promised to vote a certain way at the APC meeting, regardless of what information was provided to the APC.
- They had declared publicly many times (e.g. at public meetings or in newspaper opinion pieces) that they would 'always' oppose (or support) something that the APC has been asked to consider.

16. Can an APC member participate in discussions if they are biased?

If an elected official (such as a trustee) is truly 'biased' (closed-minded) about a topic, this can have legal consequences for local trust committee decisions, which are subject to review by the courts on 'procedural fairness' grounds (under the *Judicial Review Procedure Act*). For example, if a trustee had made a commitment (in advance of a public hearing) to vote in a particular way, the trustee's vote could potentially be overturned. If that vote was critical to the local trust committee's decision on a bylaw, the decision could also be overturned if it was challenged in the courts.

While the decisions of advisory groups are not, generally, subject to review by the courts under the *Judicial Review Procedures Act*, and there are no repercussions for an individual APC member, community members may lose faith in an APC's recommendations if its members are clearly closed-minded about matters presented to the APC. Such participation would be contrary to the principles of procedural fairness, which suggest those participating in an official capacity should be unbiased and should base their decisions and advice on the evidence received.

If you know you have a completely closed mind about a topic the APC is considering (and feel you could never be persuaded to view a matter differently), it is best not to participate in votes at APC meetings, to ensure the APC's recommendations are seen to be fairly developed, in accordance with the principles of procedural fairness. If, however, you feel strongly about something, but feel you are still open to persuasion, you are not biased and should participate in the discussion and vote.

17. What if I need advice about a potential Conflict of Interest or bias?

If you are concerned about an existing Conflict of Interest or bias situation related to your role on an Islands Trust advisory group, and if this document does not answer your questions, please contact:

- Islands Trust Chief Administrative Officer Linda Adams at 250 405 5160 or ladams@islandstrust.bc.ca
- Islands Trust Legislative Services Manager Carmen Thiel at 250 405 5188 or cthiel@islandstrust.bc.ca

[15] Wikipedia

Please note that not all Islands Trust trustees and staff have received training regarding Conflict of Interest or bias, so cannot provide advice on the topic.

18. What if I need legal advice?

If the Islands Trust staff noted above cannot answer your questions about Conflict of Interest or bias that arise from your role as an APC member, the Islands Trust's Chief Administrative Officer can help you access free legal advice through Islands Trust legal counsel, if necessary. In many cases, this is not necessary, but if it is, you can speak directly to Islands Trust legal counsel about your situation and your questions. As a legal assessment about Conflict of Interest or bias depends on evaluation of the material facts, it is important to disclose them, to ensure a proper assessment can be made. In some cases, Islands Trust staff may also provide legal counsel with relevant information about the circumstances (such as a maps or application information), with a copy to you.

If you receive legal advice from Islands Trust legal counsel about Conflict of Interest or bias and your participation in an Islands Trust advisory body, please follow it.

If you believe you need legal advice about your role on an Islands Trust advisory body because of your membership in a professional organization, you should contact that organization directly for advice and assistance.

19. What happens to the legal advice provided to an APC member by Islands Trust legal counsel?

If you do obtain legal advice from the Islands Trust's legal counsel, you will be given a written summary of it and can refer to it publicly if you wish to explain your decision to withdraw or to continue participating in APC deliberations. The advice will also be provided to your APC Chair and members of the local trust committee. The legal advice is the property of the Islands Trust Council, meaning it is also available, on a confidential basis, to Islands Trust trustees and staff. A copy will also be kept in Islands Trust files.

20. What if I want to get my own legal advice?

While it would be unusual for you to need legal advice in relation to your role on an Islands Trust advisory group, nothing prevents you from obtaining it if you wish. Such advice would be your property and any related discussions would be subject to solicitor-client privilege between you and your lawyer. Because the Islands Trust would not evaluate the lawyer's expertise, would not provide any direction or information to the lawyer and would not own any of the advice obtained, it would not contribute to the costs of such advice.

21. How can I give the local trust committee my input on topics of importance to me, if I can't do it at an APC meeting?

Even if you decide to withdraw from APC discussions due to a Conflict of Interest or bias, you could still provide input as an individual in a non-official capacity , by writing or speaking directly to the local trust committee about the topic.

22. Where can I learn more about Conflict of Interest topics?

If you are interested in reading more about the topic of Conflict of Interest, here are some helpful references:

OECD, 2003. *Managing Conflict of Interest in the Public Sector – OECD Guidelines and Overview.* Published by the Organisation for Economic Co-operation and Development (OECD)

Whitton, H. 2005. *Managing Conflict of Interest in the Public Sector – A Toolkit* . Published by the Organisation for Economic Co-operation and Development (OECD).

Wikipedia: http://en.wikipedia.org/wiki/Conflict_of_interest

DRAFT

CHIEF ADMINISTRATIVE OFFICER
2014-2015 FIRST QUARTER REPORT

Date: May 29, 2014

COMPLETED SINCE LAST REPORT	PLANNED FOR NEXT QUARTER

1. TRUST COUNCIL & TRUSTEES
 	
• Supervise all decisions and briefings to Trust Council
• Supervise implementation of Trust Council decisions
• Supervise quarterly meeting preparation
  o Council sessions – Fisheries and Oceans Canada, Respectful Workplace, San Juan County, in camera session
• Strategic planning – quarterly updates to track progress
• Review and assist with communications re budget consultation
• Advice to trustees re standards of conduct, fairness and legislative matters
• Preparation of RFD and recommended policy amendments re future CAO recruitment
• Preparations and input into policy amendment recommendations for Financial Planning Committee
• Briefing re Aquaculture jurisdiction
• RFD re Islands Trust boundary
• Briefing re Cameron Thorn delegation
• Briefing re APC Conflict of Interest
• Draft Guidelines for APC members re Conflict of Interest
• Liaison with auditors
	• Supervise implementation of Council decisions
	• Supervise quarterly meeting preparation
	  o RFDs and briefings
	• Strategic planning – on-going management and monitoring
	• Future CAO recruitment process
	  o Amendments to EC Policy re CAO Contingency Succession Plan
	• New policy development – Islands Trust boundary
	• Input into potential policy amendments
	  o Access to legal advice
	• Initial planning for new Trust Council and Executive Committee orientation

2. EXECUTIVE COMMITTEE • Supervise tri-weekly meeting preparation • Supervise implementation of EC decisions • Litigation defence management (1 active file) • Liaison with Ombudsperson office (no current complaints) • Administrative Fairness Complaints (no new complaints this quarter)	• Supervise tri-weekly meeting preparation • Supervise implementation of EC decisions • Coordinate review and comment on Islands Trust Impact Assessment study and review drafts (pending progress by provincial government and consultant) • Litigation defence management (1 active file) • Briefing regarding food security topics • Further work re changes to ITFB name • Initial steps in policy development and implementation improvement program • Finalize recommendations for policy development process • Deliver staff training modules • Preparations for UBCM attendance and resolutions session

3. <u>EXECUTIVE SERVICES UNIT</u> • Staff performance reviews and plans (partial) • Unit budget management	 • Unit budget management • Complete staff performance reviews and plans
COMPLETED SINCE LAST REPORT	**PLANNED FOR NEXT QUARTER**
4. <u>EXTERNAL LIAISON</u> • Ministry of Community, Sport and Cultural Development re miscellaneous Islands Trust issues • Educational presentation to MCSCD staff (re Islands Trust) • Association of Vancouver Island and Coastal Communities • UBC Forum re BC Ferries	• Local Government Management Association
5. <u>MANAGEMENT TEAM</u> • Bi-weekly management coordination meetings • Monthly meetings of leadership group • Complete personal performance planning materials • Professional Development: Local government ethics and legal training; leadership coaching, BC Land Summit (PIBC annual convention re PD requirements)	• Bi-weekly management coordination meetings • Monthly meetings of leadership group • Training focus: leadership, problem solving/policy development • Review and coordinate internal response to staff survey results • Professional Development: Leadership coaching, Local Government Management Association

EXECUTIVE COMMITTEE
WORK PROGRAM REPORT

To: Islands Trust Council

Updated: June 3, 2014

WORK PROGRAM (*Top Three Priorities*)
Bold items are identified in Trust Council's Strategic Plan

1. GOVERNANCE, POLICY, STRATEGIC PLANNING, TRUST COUNCIL (LA)

Top Priorities

- **Clarify jurisdictional issues related to Islands Trust boundary (LA)**
- **Seek legislative change re Islands Trust Fund name change (LA)**
- Amend EC Policy re CAO recruitment process (LA)

Planned

- **Islands Trust Impact Analysis – potential impacts with regards to possible SSI incorporation (LA)**
- Review/develop protocols re food security(LA)
- Improvements to policy development process (LA)

2. COMMUNICATIONS, ADVOCACY, POLICY STATEMENT, INTERAGENCY AND PUBLIC RELATIONS (LG)

Top Priorities

- Advocacy Strategy – Develop framework for assessing priorities and methods (LG/CF)
- **Oil spill advocacy (LG/CF)**
- **BC Ferries advocacy (LG/CF)**

Planned

- **Derelict vessel advocacy (LG/CF)**
- Monitor opportunities to support ALR (LG/CF)
- **Shellfish Aquaculture – advocate for appropriate regulation** (pending further TC direction) **(LG/CF)**

3. ORGANIZATIONAL IMPROVEMENTS (DM/CS/CT)

Top Priority

- Develop recommendations regarding RWM procedures (CT)
- Establish consistent use of Policy Statement checklist with planners (DM)

Planned

- Review process for development of RD/LTC protocol agreements (DM)
- Develop recommendations re access to legal advice (re APC members) (CT)



TRUST COUNCIL MEETING – SESSIONS, REQUESTS FOR DECISION & INFORMATION ITEM(S)

Sessions

- In camera Session
- Fisheries and Oceans Aquaculture Session
- Respectful Workplace Session
- San Juan County Liaison

Decision Items

- 2014 Quarterly Trust Council meeting schedule
- Quarterly Priorities Chart
- March 2014 minutes
- Executive Committee Work Program Report
- Trust Council Input into Future CAO Hiring Process
- Amendments to Policy 4.i.v – Local Trust Committee Resolutions without Meeting
- Elections Administration Bylaw
- Islands Trust Boundary (in camera)
- Annual Report
- Advocacy Strategy

Information Items

- Trust Council Strategic Plan – status update
- Trust Council - Continuous Learning Plan (for discussion and suggestions)
- CAO Quarterly Report
- Draft Sept 2014 Trust Council program
- Briefing – Jurisdiction re Fishery Aquaculture
- Briefing – Elections Administration - Mail Ballots
- Briefing – Provincial Analysis of Impact of Potential Salt Spring Incorporation

PROVINCIAL LIAISON UPDATE

Completed

- Meetings with area MLAs at Association of Vancouver Island and Coastal Communities conference

Planned

- Introductory meeting with Minister of Community, Sport and Cultural Development
- Meeting with area MLAs at UBCM

Linda Adams
Chief Administrative Officer

Sheila Malcolmson
Chair

REQUEST FOR DECISION

To: Trust Council **For the Meeting of:**: June 18-19, 2014

From: Executive Committee **Date Prepared:** June 4, 2014

SUBJECT: RECOMMENDATIONS REGARDING TRUST COUNCIL INPUT INTO FUTURE CAO APPOINTMENTS

RECOMMENDATION:

1. **That the Islands Trust Council approve the proposed amendments to *Policy 2.4.i – Executive Committee Terms of Reference* as illustrated in the draft dated June 18, 2014.**

2. **That the Islands Trust Council request the Executive Committee to make amendments to its *Policy 8.4.1 – Chief Administrative Officer Contingency Succession Plan*, to reflect the amendments made to Trust Council Policy 2.4.i.**

CHIEF ADMINISTRATIVE OFFICER COMMENTS:
The Islands Trust Council has currently delegated the hiring (and potential termination) of its Chief Administrative Officer to the Executive Committee. In September 2013, it initiated a re-evaluation of the related roles and responsibilities and, in March 2014, asked the Executive Committee for advice. The Executive Committee has recommended changes to the Executive Committee's Terms of Reference that would provide a role for additional trustees (those that have been elected to chair Trust Council's Standing Committees) in both a future hiring decision and a potential termination decision. The proposed amendments also provide for consultation with the entire Trust Council, early in a future hiring process.

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL:
In addition to some minor nomenclature amendments, the proposed amendments to *Policy 2.4.i – Executive Committee Terms of Reference* would clarify two aspects of the Executive Committee's role in regards to the Chief Administrative Officer:

1. In regards to recruitment and selection of a new Chief Administrative Officer, the proposed amendments indicate that the Executive Committee would be responsible for coordinating a *Chief Administrative Officer Hiring Committee (CAOHC)*, consisting of the Executive Committee and the chairs of Trust Council's three Council Committees. The CAOHC would then be responsible for managing the CAO hiring process (including appointment), after consulting with Trust Council. The CAOHC would also be responsible for managing the initial six-month probationary period of a new CAO. The Executive Committee would be responsible for ensuring that the CAOHC consults with Trust Council in compliance the Terms of Reference included as Attachment 1 to Policy 2.4.i.
2. While not initially part of the Islands Trust Council's request regarding this topic, the Executive Committee also recommends that roles and responsibilities regarding the

potential termination of a CAO (if undertaken 'without just cause'[1]) should mirror those that are put in place for the hiring process. To this end, a new section of Policy 2.4.i is proposed which would require that a similar committee be established if the Executive Committee considers that termination of a CAO (without cause) should be considered. The Executive Committee would retain the authority to terminate a CAO where there was 'just cause' (e.g. theft, fraud, dishonesty, etc.), but would need to convene a C*hief Administrative Officer Employment Evaluation Committee* to consider and make any decisions about termination 'without just cause'. (Should a decision about termination of a CAO be contemplated, the Executive Committee would also require professional advice, as such actions must also comply with the *Employment Standards Act*, and policies of the Public Service Agency).

The second part of this recommendation requests the Executive Committee to amend its *Policy 8.4.i - CAO Contingency Succession Plan* to reflect the Executive Committee's revised role in the CAO recruitment and appointment process. The Executive Committee has already passed a resolution asking staff to provide recommendations about such amendments, pending the outcome of Trust Council's decisions in this matter.

FINANCIAL:
The financial implications of these recommendations is expected to be relatively minor, in comparison with the status quo, where only the Executive Committee is responsible for the CAO recruitment and appointment process. If and when a C*hief Administrative Officer Hiring Committee* must be formed*,* there would be some additional travel expenses for any in-person meetings the committee determines are necessary. Such additional expenses would likely be minor in comparison with the overall costs of a recruitment process.

Similarly, the financial implications of requiring the Executive Committee to form a *Chief Administrative Officer Employment Evaluation Committee,* (if it ever wished to consider termination of a CAO incumbent) would likely be minor, compared to the current situation, where just the Executive Committee would consider that topic.

POLICY:
The proposed recommendations would result in the amendments to Policy 2.4.i, as illustrated in Attachment 1 to this briefing and creation of an attachment to Policy 2.4.i to guide consultation with Trust Council during a future CAO recruitment and appointment process and to specify roles if termination of a CAO incumbent was ever being considered.

IMPLEMENTATION/COMMUNICATIONS:
If Trust Council endorses these recommendations:
1. Policy 2.4.i, as amended, would be included in the Islands Trust Policy Manual and posted on the Islands Trust website.
2. The Executive Committee would amend its *Policy 8.4.i – Chief Administrative Officer Contingency Succession Plan* to reflect its amended role in the CAO recruitment and appointment process.

OTHER: At a future date, Trust Council may also wish to consider amendments to Bylaw 3, as discussed in previous materials provided to Trust Council. As this would be a larger exercise, and would require consideration of several other matters, it is not part of the current recommendation.

[1] Under the *Employment Standards Act*, 'termination with just cause' means an employee is terminated for reasons related to a 'just cause' such as theft, fraud, dishonesty, assault, breach of duty, wilful misconduct, chronic absenteeism, etc. Termination 'without just cause' could cover a number of common situations where an employee is not a good fit for the job, even though there are no specific 'causes'. Termination 'without just cause' requires an appropriate notice period, compensation in lieu of notice, or a combination of the two, based on length of service. More information is available on a Fact Sheet produced by the Employment Standards Branch.

BACKGROUND

- In September 2013, Trust Council passed the following resolution:
  "That the Islands Trust Council establish a select committee, to be comprised of Trustees Hagedorn, Law, Morrison, Crumblehulme, Grove, French, Montague and Brent, and request it to make recommendations regarding potential amendments to Islands Trust Council Administration Bylaw, 1990 (Bylaw 3) and Trust Council Policy 2.4.1 – Executive Committee Terms of Reference that would provide for input from Trust Council into future appointments to the position of Islands Trust Chief Administrative Officer". Committee membership later changed with two additions and two resignations.
- At this time, there are no plans to hire a new CAO and no retirement plans have been announced by the current CAO. However, the Executive Committee recently adopted a CAO Contingency Succession Plan, which indicates the steps the Executive Committee would take in the event of an *unplanned* and extended absence of the CAO (permanent or temporary). The Executive Committee's adoption of this plan raised awareness of the role that Trust Council had delegated to the Executive Committee in regards to the CAO hiring process.
- The 'Select Committee on Trust Council Input into Future CAO Appointments' met three times and prepared a Briefing for Trust Council's consideration in March 2014. The Briefing outlined options related to Trust Council input into future CAO appointments, provided some initial recommendations and sought Council's input on the options presented.
- Following a discussion of the briefing and the options the Select Committee had presented, Trust Council passed the following resolution:

  That the Islands Trust Council request the Executive Committee to prepare draft amendments to Policy 2.4.i, and if required, to Trust Council Bylaw No. 3, to require Trust Council consultation in advance of a CAO recruitment and selection process and develop Terms of Reference to specify the format for the consultation; and that the Select Committee on Trust Council Input into Future CAO Appointments be disbanded.

- At its meeting of March 18, 2014, the Executive Committee considered Trust Council's request and reviewed the Briefing prepared by the Select Committee. It passed the following resolutions:

  - *That the Executive Committee request staff to develop policy amendments to have the Select Committee on Future Chief Administrative Officer Recruitment and Selection be comprised of the four members of the Executive Committee and the three Council Committee Chairs.*

  - *That the Executive Committee direct staff to amend Trust Council Policy 2.4.v policy to require the 'Recruitment Committee' to consult Council early in the Chief Administrative Officer recruitment and selection process.*

  - *That the Executive Committee request staff to bring back amendments to policy 2.4.i that the Selection and Recruitment body is empowered to make an appointment offer at the end of the recruitment and selection process, after early consultation with Trust Council.*

  - *That the Executive Committee request staff to report back on the feasibility of Trust Council consent or consultation before the end of the Chief Administrative Officer probationary process in light of relevant Public Service Agency Policy.*

- Attachment 1 illustrates potential amendments to Policy 2.4.i that implement these resolutions of the Executive Committee. In summary, the Executive Committee's recommendations suggest that:

  - The CAO hiring process should be guided by a special-purpose committee (a CAO Hiring Committee or 'CAOHC') that would be formed from time-to-time, when CAO recruitment became necessary.
  - The CAOHC would consist of members of the Executive Committee plus the three chairs of Council's standing committees (Financial Planning Committee, Trust Programs Committee, and Local Planning Committee).

- The CAOHC would be responsible both for managing the CAO hiring process, including the final decision about an appointment, and for managing the initial six-month orientation and probationary period for a new CAO.
- The CAOHC would be required to consult with Trust Council early in the recruitment process and again before the end of a new CAO's initial six-month probationary period.
- As the CAOHC would be required to act in a manner consistent with Public Service Agency policies, policies of the Merit Commissioner and other factors that may change from time to time, relevant sections of the policy and the attached Terms of Reference are not prescriptive.
- Should the Executive Committee consider that termination of a CAO (without cause) should be considered, it would be required to convene a CAO Employment Evaluation Committee which would then be responsible for considering the matter, getting advice from the Public Service Agency and making any related decisions. Such a committee would also be made up of the Executive Committee and the three chairs of Council's standing committee.

REPORT/DOCUMENT:
Attachment 1 – Potential Amendments to Policy 2.4.i – Executive Committee Terms of Reference

KEY ISSUE(S)/CONCEPT(S):
Changes to an existing policy that:

- determines responsibility for managing the hiring, orientation and initial evaluation of a new Islands Trust CAO
- provides guidelines for consultation of Trust Council during such a process.
- Determines responsibility for managing any initiatives to terminate an incumbent Islands Trust CAO

RELEVANT POLICY:

- Policy 2.4.i – Executive Committee Terms of Reference http://www.islandstrust.bc.ca/media/58240/2.4.i%20ectermsofrefence.pdf
- Policy 8.4.i – CAO Contingency Succession Plan (to be amended by the Executive Committee, pending Trust Council's decisions): http://www.islandstrust.bc.ca/media/225550/84iCAOcontingencysuccessionplan.pdf

DESIRED OUTCOME:
A greater opportunity for Trust Council input into the recruitment, appointment and probationary period of a future CAO. Greater clarity about roles and responsibilities, if termination of a CAO incumbent is being considered.

RESPONSE OPTIONS

Recommended:

1. **That the Islands Trust Council approve the proposed amendments to *Policy 2.4.i – Executive Committee Terms of Reference* as illustrated in the draft dated June 18, 2014.**

2. **That the Islands Trust Council request the Executive Committee to make amendments to its *Policy 8.4.1 – Chief Administrative Officer Contingency Succession Plan*, to reflect the amendments made to Trust Council Policy 2.4.i.**

Alternatives:

1. Not to make changes at this time to Policy 2.4.i.
2. To make different changes to Policy 2.4.i.
3. To initiate different changes to the roles and process for hiring and terminating a CAO.

Prepared By: **Linda Adams**
Chief Administrative Officer

Reviewed By/Date: Executive Committee; May 6 and June 3, 2014
Cindy Shelest, Director – Admin. Services; May 28, 2014



_____
Chief Administrative Officer

RFD Attachment 1

2.4.i. Policy

EXECUTIVE COMMITTEE TERMS OF REFERENCE

Trust Council: March 12, 1994
Amended: June 18, 2014

A: PURPOSE:

1. To outline, further to the Standard Committee Terms of Reference, the specific roles and responsibilities of the Executive Committee in support of the Islands Trust's object, goals, objectives and policies.

B: REFERENCES:

1. Policy Manual:

1.1. Council Committee System (2.3.i.)

1.2. Islands Trust Council Meeting Procedures Bylaw No. ~~21~~ 101 (2.2.iv.)

1.3 Terms of Reference for Trust Council Consultation during a Chief Administrative Officer Hiring Process (Attachment 1)

C: POLICY:

AREAS OF RESPONSIBILITIES

1. BYLAW APPROVAL

1.1. To consider **approval of all bylaws** based on compliance requirements with the Trust's object and Policy Statement.

1.2. To review and provide recommendations to Trust Council on all **Trust Council bylaws**.

2. TRUST COUNCIL

2.1. To work with the Chair in the preparation and facilitation of effective **Trust Council meetings** and to review and make recommendations on all Trust Council agenda items.

2.2. To serve as a **liaison between all Council Committees** and to coordinate inter-committee communication, follow up on Trust Council referrals and Committee submissions to Trust Council via the Executive Committee.

2.3. To assist Trustees, Council Committees, Local Trust Committees and the ~~Executive Director~~Chief Administrative Officer in **resolving internal conflicts**.

2.4. To ensure the Islands Trust's legislative adherence with Trust bylaws, policies, procedures and guidelines, and relevant provincial and federal legislation.

3. LEGISLATION

3.1. To **monitor legislation** of the federal and provincial government through facilitating Trust input to relevant legislation proposals and the assessment of relevant new legislation.

3.2. To coordinate Council's **legislative amendment program** by maintaining a legislative change program of current and possible proposals recommending legislative changes to Trust Council.

3.3. To facilitate the development of **protocol agreements** with other agencies to maximize inter-agency cooperation to pursue the Trust's object.

4. POLICY DEVELOPMENT

4.1. To coordinate the Islands Trust **policy development program** and to review all policy matters presented to Council ~~and to review all policy matters presented to Council~~.

4.2. To review and provide comment on management's **operational procedures** development.

5. ORGANIZATIONAL STRATEGIC PLANNING

5.1. To monitor the development and implementation of the Trust's **work program** function.

5.2. To coordinate the development, preparation and implementation of an **organizational strategic plan**.

5.3. To facilitate an ongoing **Trustee training** and orientation program.

6. COMMUNICATIONS

6.1. To coordinate an effective agency liaison with **external government, private and non-profit sector agencies**.

6.2. To coordinate an effective **public relations program** through the development of targeted public communication efforts.

6.3. To maximize effective **internal communications** by facilitating opportunities for Trustees, LTC's, Council Committees, Trust Council and staff consultation and information exchange and provision of services and resources.

7. TRUST FUND LIAISON

7.1. To facilitate **financing and service** arrangement by the Islands Trust to the Trust Fund program.

7.2. To facilitate **effective liaison** between the Trust Fund Board and other Islands Trust entities.

8. MANAGEMENT LIAISON

8.1. To **facilitate feedback** on the organization's and/or staff's performance via the ~~Executive Director~~**Chief Administrative Officer** and monitor appropriate follow up action by management.

8.2 To review and provide input to Management's **operational procedures**, proposals, plans and issues.

9. **CHIEF ADMINISTRATIVE OFFICER LIAISON**

~~8~~9.~~2.~~1 To coordinate, when needed, the formation and operation of a *Chief Administrative Officer Hiring Committee (CAOHC)*, consisting of the Executive Committee and the chairs of Trust Council's three Council Committees and that will be responsible for recruiting, appointing, orienting and evaluating a Chief Administrative Officer during the initial six-month probationary period; to ensure that, prior to appointing a new Chief Administrative Officer, the CAOHC has consulted with the Islands Trust Council and has complied with the terms of reference for such consultation indicated in Attachment 1 to this policy.

9.2 To coordinate ~~recruitment,~~ appraisal~~,~~ and discipline ~~and/or termination~~ actions associated with the ~~**Executive Director**~~**Chief Administrative Officer**~~-~~, after the initial six-month probationary period, in consultation with Trust Council as required.
~~in consultation with Trust Council as required.~~

~~8~~9.~~3~~3~~.~~ To coordinate, if the Executive Committee considers it necessary, the formation and operation of a *Chief Administrative Officer Employment Evaluation Committee* consisting of the Executive Committee and the chairs of Trust Council's three Council Committees and that will be responsible for seeking advice from the Public Service Agency and making decisions about any Executive Committee initiatives or recommendations to

consider termination of a Chief Administrative Officer's employment without just cause[1] after the initial six-month probationary period.

~~To review and provide input to Management's **operational procedures**, proposals, plans and issues.~~

Policy 2.4.i Executive Committee Terms of Reference
Attachment 1
Terms of Reference
Chief Administrative Officer Hiring Committee
Consultation with Trust Council during
a Chief Administrative Officer Hiring Process

1. Purpose

1.1 These Terms of Reference are intended to guide a *Chief Administrative Officer Hiring Committee (CAOHC)*, if and when one has been formed pursuant to section 9.1 of Policy 2.4.i. Specifically, the purpose of these Terms of Reference is to ensure that such a committee consults with Trust Council early in the Chief Administrative Officer (CAO) hiring process and before the end of a new CAO's initial six-month probationary period.

2. References

2.1 The following references are relevant to these Terms of Reference:

1. Policy 2.4.i – Executive Committee Terms of Reference
2. Islands Trust CAO Position Description (current version at the time a CAOHC is formed)
3. Public Service Agency Policies and Procedures regarding hiring processes and probationary periods for Exempt Staff (current versions at the time a CAOHC is formed)
4. *Public Service Act*

3. Background

3.1 The hiring process for a Chief Administrative Officer must follow the requirements of the *Public Service Act*, including the policies and procedures of the BC Public Service Agency and requirements of the BC Merit Commissioner.

3.2 All appointments to the BC Public Service must be based on merit. All hiring processes are subject to audit by the BC Merit Commissioner to confirm that appointments have been made on the basis of merit.

3.3 Selection Criteria that may be used to select a Chief Administrative Officer must be based on the current version of the Islands Trust Chief Administrative Office Position Description, which outlines the required education, experience, knowledge, skills, abilities and competencies required of the position.

1 Under the *Employment Standards Act*, 'termination without just cause' means an employee is terminated for reasons unrelated to a 'just cause' such as theft, fraud, dishonesty, wilful misconduct, chronic absenteeism, etc. Termination 'without just cause' requires an appropriate notice period, compensation in lieu of notice, or a combination of the two, based on length of service.

3.4 The first six months of employment for a new Chief Administrative Officer is a probationary period. Management of the probationary period for a new Chief Administrative Officer must follow the policies and procedures of the BC Public Service Agency.

4. Process

4.1. Once the Executive Committee has determined that it is necessary to begin the process for hiring a Chief Administrative Officer, it will, as soon as practicable, form a *Chief Administrative Officer Hiring Committee* (CAOHC) to have oversight over:

- the entire CAO hiring process, including recruiting and selecting a new Chief Administrative Officer
- orienting and evaluating a newly-appointed Chief Administrative Officer during the initial six-month probationary period.

4.2. Meetings of the CAOHC will be chaired by the Chair of the Islands Trust Council and will follow meeting procedures for committees as such procedures have been established in the Islands Trust Council's current Meeting Procedures Bylaw.

4.3 The CAOHC will seek advice from the Public Service Agency in regards to the CAO hiring process, to ensure the process is based upon a fair and appropriate methodology that meets the requirements of the BC Merit Commissioner.

4.4 The CAOHC will design a process for early consultation with Trust Council about CAO selection. Consultation at a meeting of Trust Council is preferable, but the CAOHC could use consultation through electronic or telephone survey where it believes this is in the best interests of the Islands Trust. Consultation with Trust Council will focus on the relative importance of those selection criteria that have been identified in the Islands Trust Chief Administrative Office Position Description and therefore may be considered in the selection process (education, experience, knowledge, skills, abilities and competencies).

4.5 In consultation with executive recruitment professionals at the BC Public Service Agency, and to the degree that is practicable, the CAOHC will consider any input it has received from Trust Council (re Section 4.4), when it is designing and developing:

a. a CAO job advertisement

b. the methodology for reviewing and rating CAO candidate resumes

c. CAO candidate screening tools such as interview questions, written tests, work simulation exercises and evaluation of work samples.

4.6. In consultation with professionals at the BC Public Service Agency, and to the degree practicable, the CAOHC will consult with Trust Council before the end of a new CAO's initial 6-month probationary period and will consider the input it has received from Trust Council before making any decisions about the outcome of the probationary period.

REQUEST FOR DECISION

To: Trust Council **For the Meeting of:**: June 18-19, 2014

From: Carmen Thiel, Legislative Services Manager **Date Prepared:** May 29, 2014

File No.:

SUBJECT: AMENDING ISLANDS TRUST COUNCIL POLICY 4.1.V LOCAL TRUST COMMITTEE RESOLUTIONS WITHOUT MEETING

RECOMMENDATION:

That Islands Trust Council endorse the process outlined in Attachment 1 to this Request for Decision, for a comprehensive review of the policy and procedures regarding Local Trust Committee Resolutions Without Meeting and that a draft replacement policy be brought to Trust Council in September 2014 for consideration of adoption.

CHIEF ADMINISTRATIVE OFFICER COMMENTS:
The Executive Committee has considered concerns that trustees have raised about the process by which Local Trust Committees consider Resolutions Without Meeting and originally placed the topic on its work program in 2013, asking staff to develop some preliminary recommendations. Staff have also identified some areas for improvement and updating of both the policy and the procedures followed. This resolution would provide Council's endorsement of the process by which potential amendments will be developed, in consultation with the Local Planning Committee and with the planning staff who administer the procedures. .

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL:

The development of a Request for Decision for Trust Council regarding resolutions without meeting (RWM) procedures is the top priorities on the Executive Committee work program within the Legislative Services sub-section.

The proposed process outlined in this report is intended to result in an up-to-date policy that addresses current circumstances and issues; separates the policy from procedures, which will instead be included in the Operations Manual; and, through the procedures, clarifies the roles and responsibilities of local trust committee (LTC) members and staff during the RWM process.

The legislated ability for Islands Trust bodies, including LTCs, to vote on and pass resolutions by RWM is unique among local governments in BC.

Section 26 (corporate procedure) of the *Islands Trust Act* provides that:

- approval of a resolution is given if a majority of local trust committee members inform the secretary of their approval in person or by telephone or other means of telecommunication;
- the approved resolution (without meeting) is as valid as if it had been voted on and passed at a properly called and constituted meeting of a local trust committee; and

- RWMs do not apply to resolutions giving second or third reading to a bylaw which must be done at a regular or special meeting.

FINANCIAL:

No new external costs are expected as a result of the review, analysis, drafting and proposed implementation and monitoring of a new policy and procedures. This work is expected to take approximately 28 hours of the Legislative Services Manager's (LSR) time.

In addition to time spent by the LSR to analyze and draft a replacement policy and procedures, the material will also be critiqued and input sought from Local Planning Services staff (regional planning managers and deputy secretaries (legislative clerks), the Chief Administrative Officer, and the concurrence of the Local Planning Committee and Executive Committee.

POLICY:

The recommendation could lead to the replacement of the current RWM policy and procedures for LTCs.

IMPLEMENTATION/COMMUNICATIONS:

A consultation and policy analysis timeline as well as a proposed plan to monitor and evaluate implementation of a new policy are included in Attachment 1.

BACKGROUND:

At its meeting of May 7, 2013 the Executive Committee added the following topic to its work program: to develop a Request for Decision for the Islands Trust Council that would identify and recommend potential amendments to: Islands Trust Council Policy 4.1.v – Local Trust Committee Section 26 Resolutions Without Meeting; and other policies that may require amendments in regards to Resolution Without Meeting Procedures. Following completion of other work, this item is now the top priority within the Legislative Services sub-section of the Executive Committee's work program.

As a result of this direction, the policy and procedures will be analyzed and reworked to update them and to address various concerns and observations raised by local trustees and staff.

REPORT/DOCUMENT:

Attached to this RFD are:

- Attachment 1: Evaluation / consultation process and implementation plan

KEY ISSUE(S)/CONCEPT(S):

It is intended to include the following concepts in the replacement policy[1]:

- the principles of giving all members of a local trust committee notice of the proposed resolution, the ability to view background information on the subject, allow the Chair to call for the vote and allow members to vote on the resolution;
- the principle that RWMs are for items not requiring any discussion or debate by the LTC;
- criteria for when RWMs should and should not be used;
- the legislated requirement for open and transparent meetings, i.e. unlike voting at an open public meeting, voting by RWM does not allow for discussion or debate of the resolution by LTC members, nor for public observance or participation;

[1] Note: Many of these principles are part of current practice, but not all are specifically addressed in the current policy or procedures.

- where a majority of LTC members considers that an RWM would best be dealt with at a meeting, (e.g. due to the fact that it requires discussion and debate), provision for a motion to postpone consideration of the RWM to the next regular or special meeting;
- procedural fairness in conducting RWMs;
- the requirement to report RWMs in open meeting or closed meeting as applicable, and to file RWMs with LTC minutes;
- the requirement for a local trustee to declare a conflict of interest where the trustee considers that he or she is not entitled to participate in a particular RWM.

As part of revision of procedures, direction and clarification would be provided on:

- where a trustee(s) asks for further information than that initially provided by staff, the information will be copied to all LTC members;
- changing the titles of staff positions and in some instances the roles assigned to staff;
- updating the language to include email as a way of communicating between trustees and staff during the RWM process;
- LTC chairs, whenever possible, allowing the local trustees for the local trust area the opportunity to move and second RWMs (note that this provision may be included in the policy rather than the procedure section);
- a process whereby members of the LTC may move and second a subsidiary resolution to have consideration of the RWM postponed until the next regular or special meeting if debate and discussion is deemed essential;
- providing for a follow up telephone call from staff where a trustee(s) has not responded to the conducting of the vote within 24 hours of transmittal by staff and indicating what the record should show if a trustee does not respond;
- providing that the Recording of the Vote indicate when a LTC member did not participate in the vote due to a conflict of interest declaration or where the member is deemed absent.

RELEVANT POLICY:

1. Trust Council Policy 4.1.v: Local Trust Committee Section 26 Resolutions Without Meeting: http://www.islandstrust.bc.ca/media/58270/4.1.v%20ltcresolutionswithoutmtg.pdf
2. *Islands Trust Act*
3. *Local Government Act*
4. *Community Charter*

DESIRED OUTCOME:

Proposed changes would bring the existing policy and procedures up to date, separate the policy from procedures, and address items raised by trustees and staff as described under Key Issues/Concepts above.

RESPONSE OPTIONS

Recommended:
That Islands Trust Council endorse the process outlined in Attachment 1 to this Request for Decision, for a comprehensive review of the policy and procedures regarding Local Trust Committee Resolutions Without Meeting and that a draft replacement policy be brought to Trust Council in September 2014 for consideration of adoption.

Alternative:
1. Not to endorse the process as outlined at this time.
2. To request staff to develop a different process or recommend different or additional criteria to amend Policy 4.1.v.

Prepared By: Carmen Thiel, Legislative Services Manager

Reviewed By/Date: Executive Committee, June 3, 2014



Chief Administrative Officer

Attachment 1 **– Evaluation / Consultation Process and Implementation Plan for Review of Policy 4.1.v – Local Trust Committee Resolutions without Meeting**

Timelines and Process for Research, Analysis and Preparation of Draft Policy				
Tasks	**June 23–June 30 2014**	**July 2014 7 14 21 28**	**August 2014 4 11 18 25**	**Sept. 2014 1 8 15 22 29**
1. Separate policy and procedures; review/analyze for changes; draft revised policy/procedures	LSM ⟷			
2. Circulate draft for review and input **and** Meet to discuss and brainstorm input/suggestions; analysis of options; and Revise policy as required and prepare to submit to Local Planning Committee & Executive Committee for consideration by Council		CAO, RPMs & Leg. Clerks ⟷ LSM & RPMs ⟷		
3. LPC Meeting – Aug. 7			LPC & EC ⟷	
4. EC Meeting – Aug. 26				
5. TC Meeting – Sept. 10-11 Consideration of draft policy for adoption				TC ⟷

LSM = Legislative Services Manager: C. Thiel
RPMs = Regional Planning Managers: D. Marlor, Robert Kojima, Leah Hartley, Courtney Simpson
LC = Legislative Clerks: L. Webster-Gibson, S. Lloyd-deRosario, Claire Olivier
LPC = Local Planning Committee
EC = Executive Committee

IMPLEMENTATION PLAN:

Following adoption of policy:

1. Email Local Planning Services (LPS) staff notifying them of policy adoption and circulating policy and procedures. Advise that a policy review session will be held with RPMs and legislative clerks.

2. Schedule a 15 minute overview session, in conjunction with an LPS Professional Development session in early 2015, to give an overview of the policy to LPS staff.
3. Schedule a one hour working session (at LPS Pro-D Day in early 2015) with legislative clerks and invite RPMs to attend to review the policy and procedures in detail.
4. Include an overview of the policy and procedures during orientation session with trustees in December, 2014 following local government elections.

MONITOR AND EVALUATE IMPLEMENTATION OF POLICY:
Will include:

- Reviewing new procedures with legislative clerks three months after they have been implemented to see if any adjustments are necessary;

- Surveying legislative clerks and planners six months after adoption of policy to see if it is being followed and adequately addresses current circumstances and issues; and

- Keeping a record of any complaints, comments or suggestions received from trustees, staff or the public about the policy in order to monitor policy's clarity and effectiveness.

REQUEST FOR DECISION

To: Trust Council **For the Meeting of:**: June 18-19, 2014

From: Executive Committee **Date Prepared:** May 29, 2014

File No.:

SUBJECT: AMENDMENTS TO ISLANDS TRUST COUNCIL ELECTION PROCEDURES BYLAW NO. 124

RECOMMENDATION:

1. **That Islands Trust Council Bylaw No. 157, cited as "Islands Trust Election Procedures Bylaw, 2008, Amendment Bylaw No. 1, 2014" be read a first time.**

2. **That Islands Trust Council Bylaw No. 157, cited as "Islands Trust Election Procedures Bylaw, 2008, Amendment Bylaw No. 1, 2014" be read a second time.**

3. **That Islands Trust Council Bylaw No. 157, cited as "Islands Trust Election Procedures Bylaw, 2008, Amendment Bylaw No. 1, 2014" be read a third time.**

CHIEF ADMINISTRATIVE OFFICER COMMENTS:
The administration of trustee elections is guided by the same provincial legislation that guides the election of all local government officials in BC. While there is not a great deal of latitude in how elections are administered, each local government must adopt an 'Elections Procedure Bylaw' that specifies some details of election administration. The current Islands Trust Election Procedures Bylaw 124 was adopted in 2008. The provincial government has very recently amended the legislation that guides the administration of local government elections. While there will be some important changes, only one aspect (regarding public access to the information that candidates must submit) requires an amendment to the Islands Trust's Election Procedures Bylaw. Bylaw 124 currently indicates that such information will be available on the Islands Trust website, while new legislation requires it to be published by Elections BC. The proposed amendments have received legal review to ensure they are consistent with the new legislation. In addition, the proposed amendments would fix a minor typographical error in the current bylaw. Trustees will receive further information about elections administration at the September 2014 meeting.

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL:
The new *Local Elections Campaign Financing Act* (LECFA), brings about legislative changes affecting the administration of all BC local government elections, including those at the Islands Trust. As part of this, disclosure statements and supplementary reports from Islands Trust trustee candidates and elector organizations, which were formerly filed with Islands Trust following election day, will now be required to be filed with Elections BC (EBC) and will be posted on a publicly available EBC Internet site, with copies made available to the public on request. As well, beginning with the 2014 general local election, the term of office for trustees and other local government officials will be increased from 3 years to 4 years.

The new *Local Elections Statutes Amendment Act* (LESA) is the companion piece of the campaign finance legislation. It describes how election participants will transition from the old rules under the *Local Government* Act to the new campaign finance rules and includes some other changes to local elections. Through LESA several housekeeping amendments will be made to section 6 of the *Islands Trust Act* – see tracked changes version attached.

The proposed changes will take effect for the November 2014 local elections. Royal Assent to the new legislation will be given in Spring 2014.

Islands Trust Council's election procedures bylaw, under Section 9, currently provides for public viewing of disclosure statements at the Islands Trust's Victoria office, as well as the posting of the statements on the Islands Trust website. In accordance with sections 58(1)(a) and section 59(1)(a) and (b) of LECFA (attached), the amendment bylaw proposes to delete Section 9 of Bylaw 124. Instead a link will be provided on the Islands Trust website to the EBC authorized internet site for public access to the disclosure statements. As well, a copy of the disclosure information would be made available at the Islands Trust's Victoria office during regular working hours for the public who may attend in person to view the statement(s).

In addition to the above change, Bylaw 124 requires amendment to replace an incorrect reference to a section in the *Local Government Act*. The matter is in relation to resolving a tie vote "by lot" where a judicial recount has been conducted and the bylaw currently refers to Section 142 of the *Local Government Act* when it should refer to Section 141.

FINANCIAL: No impact.

POLICY: No implications for current Trust policy

IMPLEMENTATION/COMMUNICATIONS:

- Final adoption of Bylaw 157 would be considered through a Resolution Without Meeting following the June meeting of Trust Council.

- Provincial legislation requires that amendments to a local government Election Procedures Bylaw must be adopted by August 5, 2014 (at least six weeks before the nomination period begins for an election). The June 2014 Trust Council meeting is the last opportunity for consideration of this bylaw in a regular meeting.

- The provincial government has indicated it will be conducting a significant public information campaign in the coming months to advise all interested parties of the legislation changes that will affect the administration of local government elections. For example, new provincial publications will be released for local government voters, candidates, elector organizations and third-party advertisers.

  As the election period nears, the Islands Trust website will contain detailed information about Islands Trust elections for the public, including links to relevant provincial information. Notices will be placed in local media, in accordance with statutory requirements for local government elections. Non-resident property electors will be notified of the election process by mail.

OTHER: Currently, Metro Vancouver, the Powell River Regional District and the Cowichan Valley Regional District have bylaw provisions which allow for mail ballot voting. During the 2011 general local elections, the Islands Trust, by agreement with Powell River and Cowichan Valley Regional Districts, agreed that the mail ballot provisions in these Regional District bylaws would also apply to local trustee elections in those areas. For the upcoming 2014 elections, Regional District elections staff from the following jurisdictions have indicated that they will be bringing mail ballot bylaw provisions forward to their Boards for consideration: Capital Regional District,

Nanaimo Regional District and Comox Valley Regional District. A separate briefing report to Trust Council on mail ballots has been prepared on this aspect of election administration.

Changes to provincial legislation would now permit the Islands Trust Council to develop a specific "Oath of Office", which must be adopted by bylaw, if it does not wish to use the standard Oath of Office used by other local governments. . Trust Council may wish to add this topic to the Executive Committee's work program if it wishes to consider this before the 2014 elections. Such work would require careful consideration, further research, and legal advice.

BACKGROUND

- Section 6 of the *Islands Trust Act* indicates that trustee elections are to be administered in accordance with the same provincial legislation that guides all local government elections in BC. Like other local governments, the Islands Trust Council is required to adopt an Election Procedures Bylaw that specifies some details about election administration. These details must be consistent with the range of administrative options provided for in provincial legislation.
- During General Local Elections to elect trustees, the Islands Trust traditionally contracts with Regional Districts to administer its elections. This enables significant cost savings and a coordinated 'one-stop' voting experience for voters.
- The Islands Trust's Election Procedures Bylaw 124 establishes voting procedures and requirements to be applied for the conduct of elections under the *Local Government Act*.
- The NEW *Local Elections Campaign Financing Act* (LECFA) and *Local Elections Statutes Amendment Act* (LESA) will be in effect for the November 2014 general local elections.
- The following key changes introduced by LECFA will impact the administration of local government elections, including those for Islands Trust trustees:
  - A new role for Elections BC (EBC) in overseeing aspects of local elections related to campaign financing and election advertising;
  - EBC will assume responsibility for managing campaign financing disclosure statements including receipt and retention of statements, making them publicly available by posting them on the internet and providing copies on request, ensuring all requirements are met, conducting investigations, and carrying out enforcement of campaign financing and election advertising rules;
  - New standardized nomination forms will be drafted to include new candidate nomination requirements such as the requirements for phone numbers, email addresses, and a solemn declaration to be sworn by each candidate confirming their awareness of LECFA and their intention to comply with its requirements;
  - Candidate and financial agent, elector organization and third party sponsor contact information must be forwarded to EBC;
  - Disclosure statements are required from candidates, elector organizations and advertising sponsors;
  - Election advertising by an individual or organization must include sponsorship information;
  - The time limit for filing disclosure statements has been shortened from 120 days to 90 days after general voting day;
  - Organizations that do election advertising independent of a candidate must register with EBC.
- While provincial legislation has introduced a number of changes to trustee elections procedures that the public and candidates will need to be aware of, only one of the changes requires amendment of the Islands Trust Council's Election Procedures Bylaw.
- Staff have prepared draft Bylaw 157 to amend Trust Council's existing Election Procedures Bylaw 124 in a manner that makes it consistent with the new provincial legislation. The proposed amendments have received legal review.

REPORT/DOCUMENT: Attached.

- Attachment 1: Bylaw No. 157 (draft)
- Attachment 2: Excerpt of *Local Elections Campaign Financing Act* (sections 58 and 59)
- Attachment 3: Excerpt of *Local Government Act* (sections 141 and 142)
- Attachment 4: Tracked changes to Section 6 of the *Islands Trust Act* as a result of *Local Elections Statutes Amendment Act, 2014*

- Current Bylaw No. 124: http://islandstrust.bc.ca/tc/pdf/tcbylelepro0124.pdf

KEY ISSUE(S)/CONCEPT(S): Amending the Islands Trust's Election Procedures Bylaw to be consistent with provisions created by new legislation and to correct an error where the wrong section of the *Local Government Act* is cited with regard to the resolution of tie votes after a judicial recount,

RELEVANT POLICY:
Local Government Act – Part 3 – Electors and Elections (Part 3 of the *Local Government Act*, as it applies in relation to a municipality or electoral area, applies in relation to local trustees and their election.

Bill 20 *Local Elections Campaign Financing Act*
http://www.leg.bc.ca/40th2nd/3rd_read/gov20-3.htm

Bill 21 *Local Elections Statutes Amendment Act, 2014*
http://www.leg.bc.ca/40th2nd/3rd_read/gov21-3.htm

DESIRED OUTCOME:
Complying with relevant legislation which guides trustee elections.

RESPONSE OPTIONS

Recommended: As above.

Alternative:

1. To amend Bylaw 124 to make other changes to elections procedures. If such changes require further research or legal advice, and if this cannot be obtained in sufficient time, changes could necessitate a special meeting of Trust Council before August 5, 2014.

Prepared By: Carmen Thiel, Legislative Services Manager

Reviewed by Executive Committee June 3, 2014

Reviewed By/Date:

_____
Chief Administrative Officer

Attachment 1

ISLANDS TRUST COUNCIL

BYLAW NO. 157

****

A Bylaw to Amend Islands Trust Election Procedures Bylaw

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The Islands Trust Council, having jurisdiction in respect of the Trust Area in the Province of British Columbia pursuant to the *Islands Trust Act*, enacts as follows:

1. Islands Trust Election Procedures Bylaw, 2008, is amended as follows:

   1.1 By deleting the words "Section 142" in Section 6. RESOLUTION OF TIE VOTE AFTER JUDICIAL RECOUNT and replacing them with the words "Section 141"; and

   1.2 By deleting Section 9. PUBLIC ACCESS TO CAMPAIGN FINANCING DISCLOSURE DOCUMENTS in its entirety.

2. This bylaw may be cited as "Islands Trust Election Procedures Bylaw, 2008, Amendment Bylaw No. 1, 2014".

READ A FIRST TIME THIS	DAY OF	, 2014
READ A SECOND TIME THIS	DAY OF	, 2014
READ A THIRD TIME THIS	DAY OF	, 2014
ADOPTED THIS	DAY OF	, 2014

_____ SECRETARY

_____ CHAIR

Attachment 2

Excerpt of *Local Elections Campaign Financing Act* (sections 58 and 59)

Division 3 — Public Access to Information

Public access to disclosure information — Elections BC responsibilities

58 (1) Subject to this Part and any applicable regulations, until at least 5 years after general voting day for the election or assent voting to which a disclosure statement or supplementary report relates, the BC chief electoral officer must

(a) make the information in the statement or report publicly available on an Elections BC authorized internet site, and

(b) have a copy of the statement or report available for public inspection at the Elections BC office during its regular office hours.

(2) Information must be made available under subsection (1) as follows:

(a) in the case of information in a disclosure statement that is filed before the end of the period for filing without payment of a late filing penalty fee, as soon as practicable after the end of that period;

(b) in any other case, as soon as practicable after the BC chief electoral officer receives the disclosure statement or supplementary report.

(3) If a disclosure statement or supplementary report includes personal information of an individual that is not required under this Act to be included, the BC chief electoral officer

(a) is authorized to collect that information,

(b) may make, but is not required to make, the information available under subsection (1), and

(c) for purposes of subsection (1) (b), may obscure or delete the information or provide for inspection a copy of the statement or report that does not include that information.

(4) Subject to section 63 *[restrictions on use of personal information]*, on request and on payment of the reasonable costs of preparation or reproduction, a member of the public may obtain from the BC chief electoral officer

(a) a record of the information made available under subsection (1) (a), or

(b) a copy of a record available for inspection under subsection (1) (b).

(5) If an individual wishes to access, inspect or obtain a copy or other record under this section, the BC chief electoral officer may, before providing this service, require the individual to

(a) satisfy the officer that any purpose for which personal information is to be used is permitted by section 63, and

(b) provide a signed statement that

(i) the individual, and

(ii) if applicable, any individual or organization on whose behalf the first individual is accessing, inspecting or obtaining the copy or other record

will not use personal information included in the copy or other record except for a purpose permitted under this Act.

Public access to disclosure information — local authority responsibilities

59 (1) Subject to this Part, the local authority for a jurisdiction must make at least one of the following available to the public without charge at the local authority offices during its regular office hours:

(a) internet access to information that is related to the jurisdiction and is required to be publicly available under section 58 (1) (a) *[public access to disclosure information — Elections BC responsibilities]*;

(b) a copy of that information available for public inspection.

(2) Subject to subsection (3), the local authority for a jurisdiction must, on request, provide a copy or other record of information referred to in subsection (1).

(3) A local authority may, by bylaw, impose a fee for providing a copy or other record under subsection (2).

(4) If a bylaw under subsection (3) applies, the local authority must make available to the public, on request, a report respecting how the fee was determined.

(5) If an individual wishes to access, inspect or obtain a copy or other record of information under this section, a local authority official of the jurisdiction may, before providing this service, require the individual to

(a) satisfy the official that any purpose for which personal information is to be used is permitted by section 63 *[restrictions on use of personal information]*, and

(b) provide a signed statement that

(i) the individual, and

(ii) if applicable, any individual or organization on whose behalf the first individual is accessing, inspecting or obtaining the copy or other record

will not use personal information included in the copy or other record except for a purpose permitted under this Act.

Attachment 3

Excerpt of Local Government Act (Sections 141 and 142)

Determination of results by lot if tie vote after judicial recount

141 (1) A local government may, by bylaw, provide that, if at the completion of a judicial recount the results of the election cannot be declared because there is an equality of valid votes for 2 or more candidates, the results will be determined by lot in accordance with this section rather than by election under section 142.

(2) If a bylaw under subsection (1) applies and there is an equality of votes as described in that subsection, the results of the election are to be determined, as the conclusion of the judicial recount, by lot between those candidates in accordance with the following:

(a) the name of each candidate is to be written on a separate piece of paper, as similar as possible to all other pieces prepared for the determination;

(b) the pieces of paper are to be folded in a uniform manner in such a way that the names of the candidates are not visible;

(c) the pieces of paper are to be placed in a container that is sufficiently large to allow them to be shaken for the purpose of making their distribution random, and the container is to be shaken for this purpose;

(d) the court is to direct a person who is not a candidate or candidate representative to withdraw one paper;

(e) the court is to declare elected the candidate whose name is on the paper that was drawn.

Runoff election if tie vote after a judicial recount

142 (1) If at the completion of a judicial recount the results of the election cannot be declared because there is an equality of valid votes for 2 or more candidates, a runoff election must be held in accordance with this section unless a bylaw under section 141 applies.

(2) Except as provided in this section, this Part applies to a runoff election under subsection (1).

(3) The candidates in the runoff election are to be the unsuccessful candidates in the original election who do not withdraw, and no new nominations are required or permitted.

(4) As soon as possible after the judicial recount, the chief election officer must notify the candidates referred to in subsection (3) that an election is to be held and that they are candidates in the election unless they deliver a written withdrawal to the chief election officer within 3 days after being notified.

(5) The chief election officer must set a general voting day for the runoff election, which must be on a Saturday no later than 50 days after the completion of the judicial recount.

(6) If advance registration would otherwise be permitted, the closed period under section 56 (4) extends until the day after the close of general voting for the election under this section.

(7) No new list of registered electors is required and sections 62 to 65 do not apply.

(8) So far as reasonably possible, election proceedings must be conducted as they were for the original election except that, if voting under section 102 was used for the original election, it is not necessary to use this for the election under this section.

(9) Without limiting subsection (8), so far as reasonably possible, voting opportunities equivalent to those provided for the original election must be held and, for these, no new bylaws under this Part are required.

Tracked changes to Section 6 of the Islands Trust Act as a result of Local Elections Statutes Amendment Act, 2014
(Note: most of these amendments are non-substantive, relating to format only)

Local trustees

6 (1) For each local trust area, 2 trustees are to be elected to represent the electors of the area.

(2) The trust council has the same responsibility and authority in relation to elections for local trustees as a regional district has in relation to elections for electoral area directors.

(3) Part 3 of the *Local Government Act*, as it applies in relation to electoral area directors for a regional district and their election, applies in relation to local trustees and their election.

(4) For the purposes of subsection (3), the references in Part 3 of the *Local Government Act* are to be read in accordance with the following:

(a) a reference to a regional district board or local government is to be read as a reference to the trust council;

(b) a reference to a ~~jurisdiction~~ municipality or electoral area is to be read as a reference to a local trust area;

(c) a reference to the local government or regional district corporate officer is to be read as a reference to the officer or employee of the trust council assigned responsibility in relation to the matter by the trust council;

(d) a reference to a designated local government officer or designated regional district officer is to be read as a reference to the officer or employee of the trust council assigned responsibility in relation to the matter by the trust council.

(5) The term of office of a local trustee elected at the time of a general local election

(a) begins on the first Monday after December 1 following the election or when the person takes office in accordance with section 210 (3) of the *Local Government Act*, whichever is later, and

(b) ends immediately before the first Monday after December 1 in the year of the next general local election or when the person's successor takes office, whichever is later.

(6) The following provisions of the *Local Government Act* apply to local trustees:

(a) section 210 *[oath or affirmation of office]*;

(b) section 212 *[resignation from office]*;

(c) section 222.1 (6) to (8) *[unexcused absence from board meetings]*.

(7) The following provisions of the *Community Charter* apply to local trustees:

(a) Division 6 *[Conflict of Interest]* of Part 4;

(b) Division 7 *[Challenge of Council Member Qualification for Office]* of Part 4.

(8) The qualification requirements of section 66 *[who may hold office on a local government]* of the *Local Government Act* for being nominated for, being elected to or holding office on a local government apply in relation to being nominated for, being elected to or holding office as a trustee.

~~(6) Sections 210 *[oath or affirmation of office]* and 212 *[resignation from office]* of the *Local Government Act* apply to local trustees.~~

~~(7) Division 7 *[Disqualification]* of Part 4 of the *Community Charter* applies to local trustees.~~

~~(8) In relation to section 110 (1) (a) *[disqualification for failure to take oath]* of the *Community Charter*, the applicable time is that established by section 210 of the *Local Government Act*.~~

BRIEFING

To: Trust Council

For the Meeting of: June 18-19, 2014

From: Executive Committee

Date prepared: May 28, 2014

File No.:

SUBJECT: MAIL BALLOT VOTING

DESCRIPTION OF ISSUE: Overview of potential mail ballot provisions in the upcoming 2014 General Local Elections.

BACKGROUND:

General:
Islands Trust elections are administered in accordance with:

- Part 3 of the *Local Government Act;*
- The new *Local Elections Campaign Financing Act;*
- Islands Trust Council's Election Procedures Bylaw 124;
- Section 40 of the *Local Government Act* which permits local governments to share in the costs of elections administration by providing for the bylaws of one local government to apply to administration of another local government's elections;
- Trust Council Bylaw 124, which indicates that where there is an elections administration agreement in place between the Islands Trust and a Regional District, the agreement shall specify which parts of the elections administration bylaw of each party will apply to the election of local trustees.

A long-standing practice is for the Islands Trust to enter into agreements with regional districts to conduct local trustee elections (as noted in table below), as well as their own elections and school districts elections. This presents a significant cost savings to all jurisdictions (i.e. a three-way split of costs) and a convenient election experience for voters, who can vote for their representatives on all three jurisdictions at the same time and location.

The Islands Trust's budget for 2014-15 assumes that the shared-cost approach to elections will remain in place. The costs billed to the Islands Trust by each regional district is based on actual costs incurred, and depends upon many unpredictable factors, such as the number of candidates, the number of voters, the number of public enquiries and the need for extraordinary work such as judicial recounts.

Mail Ballots

Until March 2008, section 100 of the *Local Government Act* permitted local governments to only offer mail ballots to electors with a disability or to those living in a remote area[1]. Through Bylaw 124, Trust Council designated Bowyer and Passage Islands, within the Gambier Island Local Trust Area, as remote for the purposes of mail ballots.

[1] Each local government can designate 'remote areas' by bylaw in advance of an election.

The legislation was amended in 2008 to allow local governments to also offer mail ballots to persons who expected to be absent from the voting jurisdiction during normal voting opportunities. Initially, following this change, very few of the regional districts that overlap the Islands Trust area offered mail ballots to "absent" voters. During the 2011 local elections, Cowichan Valley and Powell River Regional Districts offered ballots to absent voters and Trust Council agreed, through agreements with those regional districts, that mail ballots (for trustees) could be offered to electors within the Lasqueti and Thetis Island Local Trust Areas. The uptake for such ballots in these areas was minimal, i.e. 4 mail ballots were received from Thetis Island Local Trust Area electors; and 10 mail ballots were received from Lasqueti Island Local Trust Area electors.

For the 2014 local elections, the remaining regional districts who conduct Islands Trust elections, with the exception of the Sunshine Coast Regional District, are considering offering mail ballots to electors as follows: Capital Regional District, Nanaimo Regional District and Comox Valley Regional District.

Some of the reasons that regional districts have cited for providing for the broad use of mail ballots are:

- to make voting more accessible by ensuring that all available opportunities are provided for voters to participate in local government elections; this is intended to increase voter participation; and
- in addition to non-resident property electors and those with mobility challenges, a mail ballot system could benefit those residents who are otherwise unable to vote in person because they will be absent on voting days, e.g. 'snowbirds'.

The following is an analysis of the benefits and challenges associated with the mail ballot system.

Benefits:

- Increased participation in local government elections – with voting being an important part of our democratic process, which gives voters an opportunity to influence policies that may affect their daily lives, allowing a mail ballot option for elections may encourage those that would otherwise not participate to vote in the election;

- Greater access to voting - voters who are unable to attend a voting place on either advanced or general voting day would have an additional opportunity to participate in the voting process. Allowing for mail ballots would assist those with mobility challenges that cannot attend a voting place. Even where curb side voting is offered (i.e. adjacent to a polling station), it may be difficult for some voters to leave their homes.

- Fewer voting places - Mail ballot voting may eliminate the need for specific voting places, in the future, offsetting some of the new costs associated with the mail ballot system. Note that for 2014, the CRD intends to continue to offer a polling place on the lower mainland, primarily for non-resident property electors from the Southern Gulf Islands and Salt Spring Island. Other regional districts whose jurisdictions overlap with Islands Trust have in the past also arranged to have ballots at the CRD's lower mainland polling place.

Challenges:

- Timing of election bylaw amendments - Any changes to election bylaws must be in place by August 5, 2014 for the 2014 local government elections. In the case of the Islands Trust, any amendments to the election bylaw must come before Trust Council for consideration of 1st through 3rd readings at the June Council meeting.

- Tight turnaround for mailing and returning ballots – where a mail ballot system is implemented, voters must request a mail ballot. Ballots cannot be printed until October 17, 2014, one week after the close of the nominations. It will take approximately one week for the ballots to be printed which would make them available on October 24 at the earliest. This leaves a three week window for the ballots to be sent to voters who are interested in mail ballots and returned to the chief election officer. This could prove problematic should the voter be outside of the country during this period.

The *Local Government Act* stipulates that it is the obligation of the person applying to vote by mail ballot to ensure that the mail ballot is received by the chief election officer before the close of the polls at 8 p.m. on Saturday, November 15, 2014. In addition, if a person requesting a mail ballot is not already registered as an elector, they will have to register as part of the process in order to have their mail ballot counted.

- Cost of mail ballot packages – there will be additional costs associated with the actual mail out of ballot packages. The cost could range in price depending on the size of the ballot and the size of the envelopes. Since there is no way of knowing how many voters will request a mail ballot package, a total cost cannot be estimated although the costs would potentially be split between the regional district, school district and Islands Trust.

- Validity of mail ballots - There may be questions raised regarding the validity of the mail ballot. In addition to the regular registration requirements, the legislation leaves the onus on the voter to sign a declaration stating that they are eligible to vote in the election. A question around the validity of the ballot may increase the potential for a challenge to the election process, delaying the declaration of official results. Scrutineers may be appointed and present to observe the proceedings when mail ballots, including registration material, are opened and counted. [2]

- Advertising - Additional ads may be necessary to advise residents of mail ballot voting opportunities in addition to the standard election ads. Note that Islands Trust does a mail out to non-resident property electors within the local trust areas, early in the election process, notifying them of all voting opportunities.

- Staffing costs – it is estimated that there would be a marginal increase in regional district staffing costs resulting from a mail ballot voting system to ensure ballot packages are assembled and distributed and advertising is conducted.

Regional Districts (RDs) who conduct Islands Trust elections by agreement	**RDs who already provide for mail ballots in their election procedure bylaws***	**RDs who are proposing mail ballots for 2014**	**Dates proposed RD bylaw amendments to RD Committee/Board**
Comox Valley (Denman/Hornby LTAs)		☑	Committee of the Whole – May 13 Board – May 27
Nanaimo (Gabriola LTA)		☑	Committee of the Whole – June 10 Board – June 24
Capital (Galiano, Mayne, North Pender, Salt Spring, South Pender, Saturna LTAs)		☑	Electoral Area Services Com. – May 21 Board – July 9
Sunshine Coast/Metro (Gambier LTA)	(*Islands Trust's Election Bylaw provides for mail ballots for Bowyer/Passage) ☑		SCRD Legislative Services Manager has indicated that SCRD Board does not support implementation of mail ballots for regional district elections
Powell River (Lasqueti LTA)	☑		
Cowichan Valley (Thetis LTA)	☑	(Expanded use) ☑	Board – June 11

[2] Risks of voter fraud also exist with traditional voting systems, particularly where there are multiple polling stations. Voting is based on an honour system; it is an offence to commit any type of fraud in relation to local government elections.

ATTACHMENT(S):

Attachment 1 – Excerpts from Local Government Act – Sec. 40 and Sec. 100

AVAILABLE OPTIONS:
The preferred approach and staff recommendation when the election agreements are ratified by Trust Council in September 2014, is for a consistent approach between the regional districts, Islands Trust and school districts on the use of mail ballots, where provided, so that voters within each regional district have the same process to follow when casting their votes for the three different organizations. Staff also recommend a unified approach across the Islands Trust Area, to the extent that regional districts provide for mail ballots, to maximize a consistent approach for Islands Trust voters.

It is not feasible for the three jurisdictions within each regional district to each hold separate elections, administered in three different ways. None of the three jurisdictions, including the Islands Trust, have sufficient staff or allocated budget to support this approach, which would also add significantly to voter inconvenience, confusion and inconsistency.

FOLLOW-UP:

Development of amended agreements with regional districts that conduct Islands Trust elections to address potential changes to elections administration for approval by Trust Council at its September 2014 meeting. These amendments would reflect the practices of the relevant regional district, offering mail ballots (for trustee positions) where the Regional District was also offering them.

Prepared By: Carmen Thiel, Legislative Services Manager

Reviewed By/Date: Executive Committee, June 3, 2014



_____
Chief Administrative Officer

Excerpts from Local Government Act – Section 40 and Section 100

Costs of elections

40 (1) The costs of an election, including the costs of registration of electors for the election, are the responsibility of the municipality or regional district for which the election is held unless otherwise agreed.

(2) The costs of an election may be shared under an agreement between the local government and another local government, the council of the City of Vancouver or a board of school trustees for the conduct of the election by one party for the other or in conjunction with an election of the other.

(3) A local government that is a party to an agreement under subsection (2) may, by bylaw, provide that the bylaws of the other party respecting elections apply to elections conducted under the agreement.

(4) An agreement referred to in subsection (2) may provide for a party to conduct only some of the election proceedings for or in conjunction with the other party.

(5) An election to which an agreement referred to in subsection (4) applies is valid despite the agreement and any bylaws in relation to it having the effect of creating differences in election proceedings between different parts of the jurisdiction for which an election is held.

(6) Without limiting subsection (4), an agreement referred to in that subsection may allow a local government to restrict the persons who may vote at the election proceedings conducted under the agreement to persons who are entitled to be registered as electors in relation to a specified part of the jurisdiction for which the election is held.

(7) If a restriction under subsection (6) applies, on any day on which an advance voting opportunity conducted under the agreement is open to electors of only part of the jurisdiction, an advance voting opportunity must be open to all electors of the jurisdiction on the same day.

(8) So long as any required advance voting opportunities are provided, no bylaw is necessary for an advance voting opportunity required by subsection (7), and the voting opportunity may be held at the place and for the voting hours established by the chief election officer.

(9) The chief election officer must give notice of a voting opportunity to which subsection (8) applies in any manner the chief election officer considers

appropriate, including in the notice the date, place and voting hours for the voting opportunity.

Mail ballot voting

100 (1) Subject to this section and any regulations under section 156, a local government may, by bylaw, permit voting to be done by mail ballot and, in relation to this, may permit elector registration to be done in conjunction with this voting.

(2) For a municipality, the only electors who may vote by mail ballot are

(a) persons who have a physical disability, illness or injury that affects their ability to vote at another voting opportunity, and

(b) persons who expect to be absent from the municipality on general voting day and at the times of all advance voting opportunities.

(3) For a regional district, the only electors who may be permitted to vote by mail ballot are

(a) persons who have a physical disability, illness or injury that affects their ability to vote at another voting opportunity,

(b) if areas are specified for this purpose in the bylaw under subsection (1), persons who reside in a specified area of the jurisdiction for which the election is being held that is remote from voting places at which they are entitled to vote, and

(c) persons who expect to be absent from the regional district on general voting day and at the times of all advance voting opportunities.

(4) A bylaw under subsection (1) may

(a) establish procedures for voting and registration that differ from those established under other provisions of this Part, and

(b) establish, or authorize the chief election officer to establish, time limits in relation to voting by mail ballot.

(5) The chief election officer must give notice of an opportunity to vote by mail ballot in any manner the chief election officer considers will give reasonable notice to the electors who will be entitled to vote by this means.

(6) The procedures for voting by mail ballot must require the chief election officer to keep sufficient records so that challenges of an elector's right to vote may be made in accordance with the intent of section 116.

(7) Mail ballot packages must contain the following:

(a) the ballot or ballots to which an elector is entitled;

(b) a secrecy envelope that has no identifying marks, in which the ballots are to be returned;

(c) a certification envelope on which is printed the information referred to in subsection (8) for completion by the person voting, in which the secrecy envelope is to be placed;

(d) an outer envelope on which is printed the address of the chief election officer at the local government offices and in which the envelopes under paragraphs (b) and (c) and, if applicable, the registration application under paragraph (e) are to be returned;

BRIEFING

To: Trust Council **For the Meeting of:** June 18-19, 2014

From: Linda Adams, Chief Administrative Officer **Date prepared:** June 6, 2014

SUBJECT: JURISDICTIONAL CONSIDERATIONS REGARDING FISHERY AQUACULTURE ON CROWN MARINE LANDS IN THE ISLANDS TRUST AREA

DESCRIPTION OF ISSUE: A review of government jurisdiction as it applies to fishery aquaculture on Crown marine areas in the Islands Trust Area.

BACKGROUND:
In November 2013, the Executive Committee considered a number of items related to the regulation of fishery aquaculture on Crown marine areas in the Islands Trust Area, including a request from the Denman Island Local Trust Committee to provide assistance in understanding various matters related to the issuance of Licenses of Occupation in the Trust area. The Executive Committee added the following item to its Work Program, as a top priority under the CAO's area:

> *Clarify jurisdictional issues related to aquaculture operations, including seek minister meeting related to the Denman area.*

A preliminary briefing was provided to the Executive Committee on January 14, 2014, following staff meetings with federal and provincial staff to confirm understandings and seek clarity regarding jurisdictional issues that affect aquaculture in the Islands Trust Area. Since that time, staff have also met with representatives of the Ministry of Aboriginal Relations and Reconciliation (MARR), who have also have had meetings and made presentations to the Denman Island Local Trust Committee and Trust Council (in March, 2014). In February 2014, the Islands Trust also received a significant legal opinion, responding to specific information requests related to local government jurisdiction in aquaculture matters. That opinion has been considered in developing this briefing.

DISCUSSION
Shellfish aquaculture is a significant industry in BC, with much of it located in the Islands Trust Area in Baynes Sound, the most active shellfish aquaculture region in BC. Shellfish aquaculture tenures in BC (as of 2011) are indicated on this map. Several levels of government have a role in managing the industry, as summarized below.

Important Note: While this discussion refers to 'ownership' and 'jurisdiction', it is also important to note that the entire BC coast, including the Islands Trust Area, is subject to aboriginal claims based on traditional use by First Nations. First Nations within the Islands Trust Area are actively negotiating treaty rights. Until those negotiations are concluded, jurisdictional issues related to some First Nations' activities will remain uncertain. Conclusion of treaty negotiations is expected to change current understandings of jurisdiction and ownership.

ROLES and JURISDICTION

Federal Government Role

- Prior to 2010, aquaculture in BC was primarily managed by the provincial government through various ministries with responsibilities for agriculture and the allocation of Crown land. In 2009, the BC Supreme Court ruled that only the federal government had the authority to regulate the 'fishery' aspects of aquaculture (Morton v. BC (Agriculture and Lands) (2009) BCJ No 193 BC Supreme Court)
- As a result of the *Morton* court decision, Fisheries and Oceans Canada (DFO) received a mandate to develop a new regulatory regime, now called the 'BC Aquaculture Regulatory Program' (BCARP). This regime applies only in British Columbia.
- In December 2010, the *Pacific Aquaculture Regulations* came into effect (under the federal *Fisheries Act*), giving DFO the primary responsibility to manage and regulate fishery aquaculture in BC. These responsibilities are integrated with DFO's broader responsibilities to manage wild fisheries in Canadian waters.
- The *Pacific Fishery Management Area Regulations* divide the entire BC coast into management areas, five of which (Areas 14, 17, 18, 28 and 29) apply to the Islands Trust Area, as indicated on this map.
- Through the BCARP, DFO now regulates four types of 'fishery' aquaculture in BC – marine finfish, shellfish, freshwater finfish and enhancement facilities (e.g. raising of Pacific salmon to rebuild wild stocks and provide fishing opportunities). DFO does not regulate 'non-fishery' aquaculture, such as the cultivation of marine plants.
- DFO has more than 60 full-time employees who manage and regulate the aquaculture industry in BC, organized into three departments with various responsibilities such as those indicated below:
    - Aquaculture Programs
        - Governance, policy development
        - Science coordination
        - Industry development
    - Aquaculture Resource Management
        - Long-term aquaculture management plans
        - Licenses aquaculture operations and develops license conditions
        - Consults and engages with the public and other levels of government, including First Nations
    - Aquaculture Environmental Operations
        - Fish health, environmental monitoring
        - License compliance and enforcement
        - Data management for analysis and public reporting
- With enactment of the *Pacific Aquaculture Regulations*, DFO now has sole authority to license and place conditions on the 'operational' aspects of fishery aquaculture in BC. DFO licenses address many aspects of aquaculture operation, such as:
    - The species and quantities of fish that may be cultivated
    - The waters where aquaculture may be permitted
    - Types of fish feed
    - Harvesting methods
    - Measures to control pathogens, pests, nuisance fish and fish escape
    - Measures to minimize impacts on fish and fish habitat
    - Equipment that may be used
    - Records that must be kept
- Those matters that may be regulated by DFO under the *Pacific Aquaculture Regulations* may not also be regulated by provincial or local governments.
- Further information about DFO's role in BC aquaculture management is outlined in a PowerPoint presentation that will be provided to Islands Trust Council by March Klaver, Regional Manager of DFO's Aquaculture Resource Management group in June 2014 (see DFO Session Outline). A summary of DFO's role is also available online in a pamphlet and a brief video.

- In addition to DFO, which is the lead federal agency for BC aquaculture management, two other federal agencies play lesser roles:
    - Transport Canada is responsible for administration of the *Navigable Waters Protection Act,* ensuring safe navigation in marine waters.
    - The Canadian Food Inspection Agency has jurisdiction regarding animal health risks and plays a role in protecting aquatic species from diseases and other threats to the resource base.

Provincial Government Role

- Because the provincial government owns BC's foreshore areas and the beds of inland seas (such as the Salish Sea) where aquaculture is primarily located, it continues to play a role in fishery aquaculture, despite the changes that arose from the *Morton v. BC* court decision. It also continues to regulate the operations of 'non-fishery' aquaculture, such as marine plant aquaculture.
- Since December 2010, the provincial role in fishery aquaculture is primarily related to the issuance of tenures (e.g. licenses of occupation under the *BC Land Act*) to operators who wish to occupy 'Crown' lands owned by the province. This work is administered by the Integrated Land Management Bureau of the Ministry of Forests, Lands and Natural Resource Operations (FLNRO).
- The provincial government also regulates the business aspects of aquaculture, (such as workplace health and safety) and reports on seafood exports.

Local Government Role

- In BC, the provincial government has delegated a land use planning role to local governments (including local trust committees) through the *Local Government Act*. Part 26 of the *Local Government Act* enables local governments to adopt Official Community Plans (a statement of objectives and policies to guide decisions on planning and land use management) and a variety of land use regulations, including zoning.
- While the power to adopt local land use regulations is considerable, it is finite. For example, zoning regulations may only regulate specific factors of land use, as provided in Section 903 of the *Local Government Act*. Section 919.1 of the *Local Government Act* enables local governments to designate development permit areas, for defined purposes. Development permit areas can require land owners to apply for permits, which may contain conditions that guide development when land is subdivided or altered, or when buildings are constructed. Development permit conditions do not come into play in the absence of these activities or 'triggers'.
- Local governments in BC are understood to have the authority to apply zoning regulations to the surface of water within their area of jurisdiction. Within the Islands Trust Area, this is understood to mean that local trust committees have the authority to zone the water areas that lie within Local Trust Areas as indicated on the Islands Trust Area map. While this is the current understanding of jurisdiction and has been readily applied throughout the Islands Trust Area, it has not been tested in court.
- Local government land use regulations do not apply in all cases. For example, they may not apply (or may only partially apply) to:
    - Land uses that were legally in place before the land use bylaw was adopted
    - The removal of natural resources from land (i.e. the removal of resources through mining, forestry, or fishing of wild stocks)
    - The land use activities of senior governments
    - Some federally-regulated land uses, such as airports and communications towers
    - Land uses that are permitted through other provincial acts, such as farming within the provincial Agricultural Land Reserve (which local governments may regulate to some degree, but not prohibit).
    - First Nations land uses, where aboriginal rights and title are recognized or that have been confirmed through treaty processes or court cases.
- Within the Islands Trust Area, the *Islands Trust Act* gives local trust committees the land use planning and regulatory authority that would otherwise rest with regional districts. The

provincial government also indicates that these powers are given for a specific purpose – *'to preserve and protect the trust area and its unique amenities and environment…'*. While this mandate seems considerable, local trust committees have the same tools (and the same limits on those tools) as all other BC local governments when regulating land use.

- The *Islands Trust Act* also requires the Islands Trust Council to adopt a Policy Statement to guide the way that local trust committees (and island municipalities) exercise their land use planning and regulatory powers.
- The Islands Trust Policy Statement was originally adopted in 1993 and has been amended occasionally since.
- Policies in the *Islands Trust Policy Statement* (Section 4.5) recognize aquaculture (with the exception of finfish aquaculture) as a 'valuable activity in the Trust Area if compatible with maintenance of ecosystems and community character'. The *Policy Statement* further identifies the characteristics of areas where aquaculture should not be located (e.g. areas of recreational significance, areas where aquaculture would conflict with established or designated upland land uses, areas were aquaculture would conflict with established or designated anchorage or moorage) and takes the position that 'site alteration'[1] should not result from aquaculture operations.
- While the *Islands Trust Policy Statement* guides the way that local trust committees and island municipalities develop their land use bylaws within the Islands Trust Area, it is only advisory in regards to permits issued by senior governments. Nevertheless, it can and does form the basis for advocacy when senior governments refer aquaculture applications for comment (see below).
- Several local trust committees have zoned parts of their local trust areas, in order to permit aquaculture. Attachment 2 is a compilation that shows, in general terms, where local zoning regulations within the Islands Trust Area permit aquaculture.
- It is also worth noting that the law in this area (the validity and applicability of local government zoning to determining the locations of aquaculture operations, if not the details of their operations) has become somewhat uncertain (post-*Morton*) and would not be further clarified without further court cases or legislation. However, it seems that local government has retained the ability to zone for the location of aquaculture, and can determine that aquaculture is permitted in some areas, but not in others.
- As the *Islands Trust Policy Statement* and all zoning for aquaculture within the Islands Trust Area was adopted prior to the *Morton* case, some zoning does not all comply with what is essentially new law. In some cases, local trust committees included very specific language, in their zoning regulations, about the types of species, operations or structures permitted. In those cases, it appears that the *Morton* decision makes such distinctions *ultra vires* (beyond the powers of local government). This may present some concern, in that a local trust committee may have zoned an area for aquaculture on the understanding that there would be specific types of operations with specific types of impacts. The *Morton* decision now opens the door for other types of aquaculture, potentially with different impacts, without reference to the specific zoning. Such changes may be limited in that different aquaculture species require different conditions (i.e. substrate, water depth, etc.) so actual changes may be few; where a change to a different species occurs, the level and type of impact could be viewed both positively or negatively, depending upon the actual change.
- Where local trust committees receive and consider future applications for aquaculture, they will need to be aware of the range of potential operations and impacts that could occur, once an area has been zoned for aquaculture. They should also consider that their zoning regulations should not purport to regulate the details of aquaculture operations.
- A future review of the *Islands Trust Policy Statement* should consider that some policies currently aimed at local trust committees should now be addressed as advocacy policies aimed at Fisheries and Oceans Canada.

[1] The *Policy Statement* indicates that 'site alteration includes, but is not limited to substrate modification or the use of metal plates or pipes'

First Nations

- The Islands Trust Area overlaps with the claims of over 30 different First Nations.
- First Nations in most parts of BC, including those in the Islands Trust Area, have never entered into treaties or ceded their rights and title. They therefore have 'unextinguished' rights and title to lands and resources in their traditional areas, including the lands and waters of the BC coast. Aboriginal rights and title are protected by the federal *Constitution Act,* whether or not there is a treaty.
- Because of the uncertainty that exists around poorly defined aboriginal rights and title, the BC Treaty Process is underway to create agreements that will provide more certainty about jurisdiction by resolving conflicting land ownership between the Crown and aboriginal peoples.
- The BC Treaty Process is a six-stage process. Several First Nations with interests in the Islands Trust Area are actively participating in this process. Those with interests in the Islands Trust Area that have reached the latter stages of the process include[2]:
    - Stage 6 (Treaty Implemented)
        - Tsawwassen First Nation
    - Stage 5 (Negotiations to Finalize a Treaty)
        - K'ómoks First Nation
        - Sliammon Indian Band
    - Stage 4 (Agreement in Principle Negotiations)
        - Hul'qumi'num Treaty Group
        - Kwaikah Indian Band
        - Laich-kwil-tach Treaty Society
        - Musqueam
        - Sechelt
        - Snuneymuxw First Nation
        - Sto:Lo
        - Te'mexw Treaty Association
        - Tsleil-Waututh Nation
        - Wei Wai Kum Indian Band
- A map illustrating the general location of First Nations in the Vancouver Island area is available here.
- Until treaty processes are complete, the relevance of local government regulations as they apply to some First Nations activities will remain uncertain, particularly where a First Nation is asserting aboriginal rights and title, based on traditional activities and resource uses[3]. In the absence of a treaty process, resolution of these issues could also potentially take place through a court process. If a court process was initiated (e.g. through a bylaw enforcement action) it can be expected to be a very lengthy, costly and extremely uncertain process. For this and other reasons, the Denman Island Local Trust Committee has recently decided not to enforce zoning regulations in regards to aquaculture operations of the K'ómoks First Nation, preferring instead to await the outcome of treaty negotiations.

- In some instances, local government jurisdiction as it relates to First Nations is more clearly-defined. For example:
    - Reserve lands (as defined in the federal *Indian Act*) are owned by the federal government and are excluded from the Islands Trust Area as it is defined by the *Islands Trust Act*. Policies and regulations of Islands Trust bodies therefore do not apply to such lands. Reserve lands within the boundaries of the Islands Trust Area are listed on Attachment 1.
    - Treaty settlement lands or other agreements reached through treaty are generally not subject to local government regulations, unless specifically defined by the relevant treaty. There are currently no treaty settlement lands in the Islands Trust

[2] May not be a complete list. Further information is available from the BC Treaty Commission
[3] The K'ómoks First Nation has recently asserted that its existing and planned aquaculture operations near Denman Island are an expression of its aboriginal rights and title in this area

Area. However, some treaty processes are underway that could result in the creation of treaty settlement lands or other treaty agreements related to aquaculture within the Islands Trust Area. In such circumstances, treaty language may include clauses that encourage or require First Nations to engage in collaborative land use planning processes with local trust committees.

AQUACULTURE LICENSING AND APPROVAL PROCESSES

Because of the multiple roles and areas of jurisdiction that now affect fishery aquaculture in BC marine areas, some attention has been given in recent years to the process by which aquaculture operations receive licenses and other approvals. The relevant processes are summarized below.

Federal and Provincial Processes

DFO, Transport Canada (TC) and FLNRO have developed a harmonized process for applicants wishing to propose fishery aquaculture operations on BC Crown land. While each agency makes its own decision, the process is harmonized and coordinated through:

- Use of a harmonized application form which identifies the information requirements of all agencies.
- A 'one-window' approach, where applications are submitted to Front Counter BC, a provincial agency which then distributes applications to a Project Review Team.
- A Project Review Team that screens and forwards acceptable applications to each agency for individual consideration.
- Harmonized consultation and information sharing.
- Coordination of referrals to other agencies and First Nations.
- Simultaneous approvals, if all agency processes support approval.

DFO Process

Under the harmonized process, DFO considers the following factors in its review of a fishery aquaculture application:

- Policy consistency
- Impacts on wild stocks
- First Nations – impacts on rights or asserted title and treaty considerations
- Impacts on existing fisheries
- Impacts on fish habitat and health
- Special considerations

Shellfish aquaculture applicants must indicate how their proposal will avoid impacts to important or sensitive habitats that support fisheries. These include:

- Intertidal stream channels
- Eelgrass beds
- Fish spawning areas (including forage fish areas)
- Areas with species listed in the *Species at Risk Act* (SARA)
- Salt marshes
- Rocky reefs
- Kelp beds
- Glass sponge and coral complexes

Public input into individual license applications is invited through public notices during the application period.

When DFO issues a license, it includes both general and specific conditions that are designed to ensure the operation is sustainable and that potential negative environmental effects are mitigated. Some standard Conditions of License include:

- That equipment must be able to withstand adverse weather
- Predator control conditions

- Prohibition against dredging, infilling or redistribution of native beach materials
- No harvesting or handling of equipment during herring spawn
- No activities in sand lance spawning substrates during spawning windows
- Conditions related to protection of eelgrass, squid spawn, etc.
- Conditions related to mooring of equipment, containment of Styrofoam and handling of debris.

DFO staff indicate that their practice is to not issue an aquaculture license until FLNRO has confirmed that it has approved the related tenure. DFO relies on FLNRO in regards to the relevance of local government zoning.

DFO also develops broad guidelines that in turn, guide the issuance of aquaculture licenses. For example, guidelines for geoduck and sea cucumber aquaculture are currently in development (through a public consultation process that the Islands Trust recently provided input into) and individual licenses for such operations will be limited until the guidelines are in place. Similarly, there is a moratorium on new finfish farm applications in some areas of the northern BC coast.

More detailed information about the DFO licensing process and typical Conditions of License is contained in the DFO PowerPoint presentation (see DFO Session of June 2014 Trust Council meeting0. Attachment 3 is the DFO template for a Shellfish Aquaculture License, illustrating standard conditions, and those applied to specific species.

Once a license is issued, DFO compliance staff visit aquaculture operations routinely to ensure the Conditions of License are being followed. As this program is relatively new, not all operations are yet up to the new standards that came with DFO's assumption of jurisdiction over aquaculture operations.

Other Federal Review Processes
Transport Canada reviews aquaculture applications in relation to requirements of the *Navigable Waters Protection Act.*

Provincial Process
Under the harmonized application process, FLNRO is responsible for reviewing applications for tenure under the *BC Land Act*. Such review is guided by the *Provincial Aquaculture Policy*, available here.

The *Provincial Aquaculture Policy* places limits on the types of applicants that may apply (e.g. Canadian citizens or permanent residents of legal age, registered corporations, First Nations), establishes various forms of tenure and guides various administrative matters such as review processes and rents. The standard form of Crown land tenure for shellfish aquaculture operations is a 'license of occupation', which conveys non-exclusive use for the purpose described. A license does not allow the tenure holder to curtail public access except where it would impact the licensed purpose. Normally, such a license would exist for 20 years, unless it is a 5-year license issued for a developmental operation.

In considering new applications for tenure related to shellfish, FLNRO considers factors such as:
- Riparian rights
- Navigational requirements
- First Nations' potential aboriginal interests and rights
- Environmental concerns
- Separation from other tenures
- Characteristics of the proposed management plan

Additional considerations apply in evaluating tenure expansions.

Under the *Provincial Aquaculture Policy*, FLNRO makes a number of referrals when it is considering tenure applications related to aquaculture. In addition to federal and provincial agencies, referrals for shellfish aquaculture are normally made to local governments, First Nations, and neighbouring tenure holders and upland or adjacent owners. The process also includes public notification.

The Provincial Aquaculture Policy provides more details of the FLNRO process and the factors considered, as well as compliance procedures after issuance of tenure.

Local Government Review Processes

As part of FLNRO's application review process, applications for aquaculture operations are referred to the relevant local government for comment. Local governments can then advise FLNRO of their views regarding the application, including whether the application is consistent with the relevant zoning regulations.

If a proposed tenure application is already appropriately zoned for the intended purpose, local government comments would typically confirm this. Local governments may also advise FLNRO about other areas of concern or support. Within the Islands Trust Area, local trust committees or planning staff may also provide advice about items such as available mapping data, or policies in the relevant Official Community Plan or Islands Trust Policy Statement.

If the proposed tenure application is not appropriately zoned for the intended purpose, FLNRO and the applicant would be advised. Lack of appropriate zoning is not necessarily an impediment to the issuance of a license of occupation, on the understanding that the applicant must successfully apply for appropriate zoning from the relevant local government if that zoning is not already in place. Local planning staff are available to provide applicants with information about the rezoning process and any policies that may affect the review of their application.

The process that local governments go through to zone land (or amend zoning) is determined by the *Local Government Act*. Zoning regulations must be contained within a bylaw, which must be adopted in accordance with a public process that is also defined by the *Act*. If an Official Community Plan applies, then the zoning regulations must be consistent with it. Within the Islands Trust Area, zoning regulations must also be consistent with the *Islands Trust Policy Statement.*

A provincial license of occupation typically includes a clause that indicates that the license holder must '*observe, abide by and comply with all applicable laws, bylaws, orders, directions, ordinances and regulations of any government authority having jurisdiction in any way affecting your use or occupation of the Land or the Improvements…'.* While this clause advises the license holder of its legal obligations regarding other government authorities, FLNRO does not appear to view it as a clause of the license that they can or will enforce. Instead, the other government authorities mentioned are responsible for enforcing their own regulations, where they have jurisdiction to do so. This applies to local governments in regards to zoning regulations.

Local governments have raised concerns in the past regarding the issuance of provincial tenures on Crown land, where appropriate zoning is not in place. In some instances, issuance of tenure has led tenure holders to proceed with their proposed operations, despite inconsistent zoning. In recent years, the province has amended its process to some degree to ensure applicants are aware of zoning regulations at the time of tenure applications. While provincial staff indicate that they would be unable to withhold a provincial license solely on the basis that zoning is not in place, they note that applicants normally seek to comply with local government zoning, or may even discontinue an application where a zoning change seems unlikely.

Note: While the provincial process for considering Crown land tenures has been of some concern among local governments, it has some similarities to the process that a local government (including a local trust committee) goes through when approving zoning or permits.

For example, Development Variance Permits often contain an informational clause indicating the holder must comply with the regulations of other jurisdictions, but a local trust committee does not enforce compliance with such clauses.

ATTACHMENT(S):
1. Reserve lands (under the *Indian Act*) within the boundaries of the Islands Trust Area.
2. Aquaculture Zoning within the Islands Trust Area – compilation dated April 17, 2014
3. Fisheries and Oceans Canada - Shellfish Aquaculture License Template

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AVAILABLE OPTIONS:
1. Receive for information.
2. LTCs could consider adding a local zoning review to their work program regarding aquaculture.
3. Council could consider asking the Trust Programs Committee to make recommendations regarding a related advocacy program.

FOLLOW-UP:
To be determined by Trust Council and by local trust committees.

Prepared By: Linda Adams
Chief Administrative Officer

Reviewed By/Date: Lisa Gordon, Director -- Trust Area Services
David Marlor, Director – Local Planning Services
Courtney Simpson, Regional Planning Manager, Northern Office
Clare Frater, Policy Advisor
Executive Committee – June 3, 2014



_____
Chief Administrative Officer

Attachment 1

Reserve lands (under the *Indian Act*) within the boundaries of the Islands Trust Area

Gabriola Island
Ma-Guala #6
Gabriola Island #5

Valdes Island
Lyackson #3
Shingle Point #4
Porlier Pass #5

Penelakut Island
Penelakut Island #7
Tent Island #8

Galiano Island
Galiano #9

Halalt Island
Halalt Island #1

Mayne Island
Mayne Island #5

Salt Spring
Fulford Harbour #5

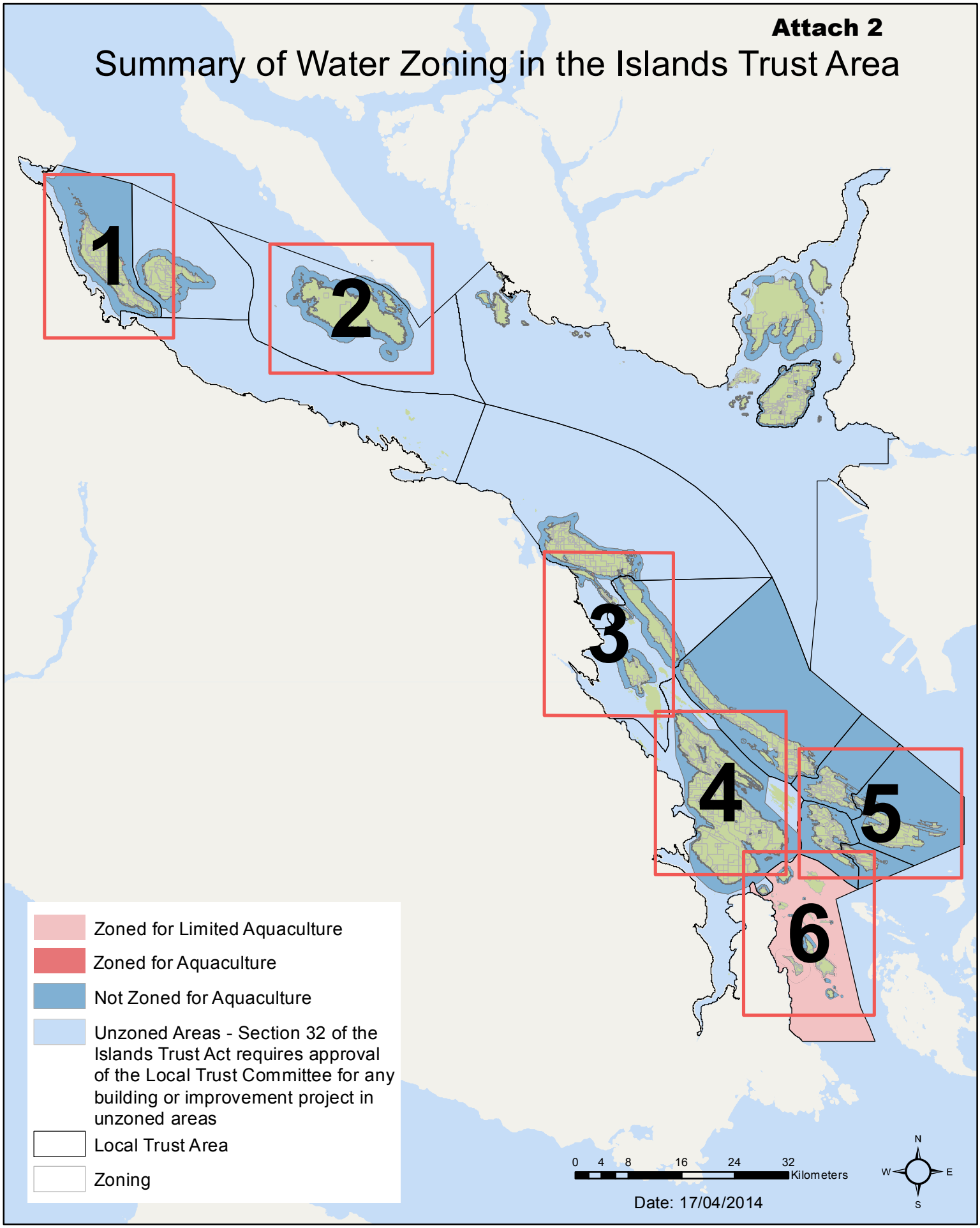
Pender Island
Pender Island #8

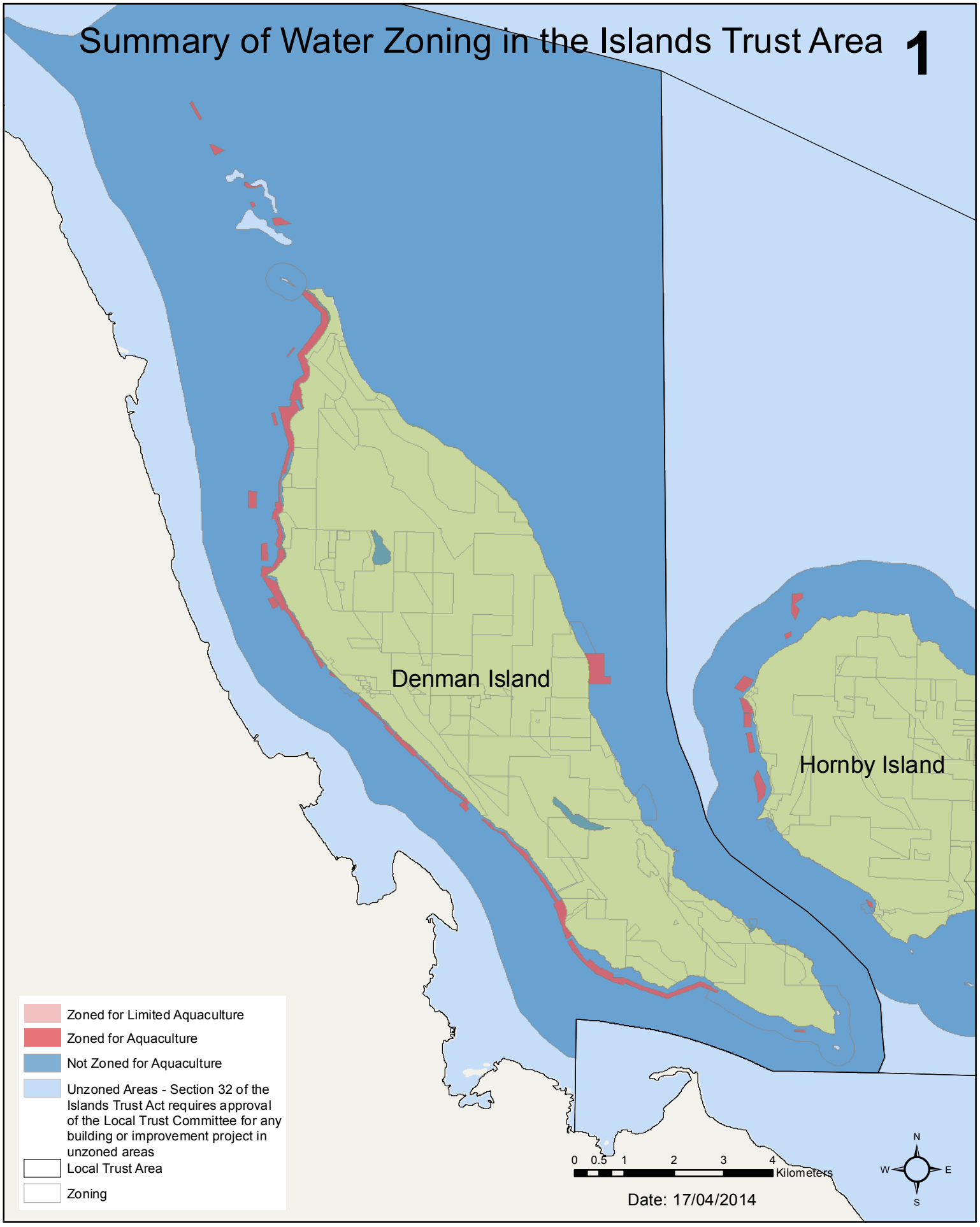
Saturna Island
Saturna Island #7

Bare Island
Bare Island #9

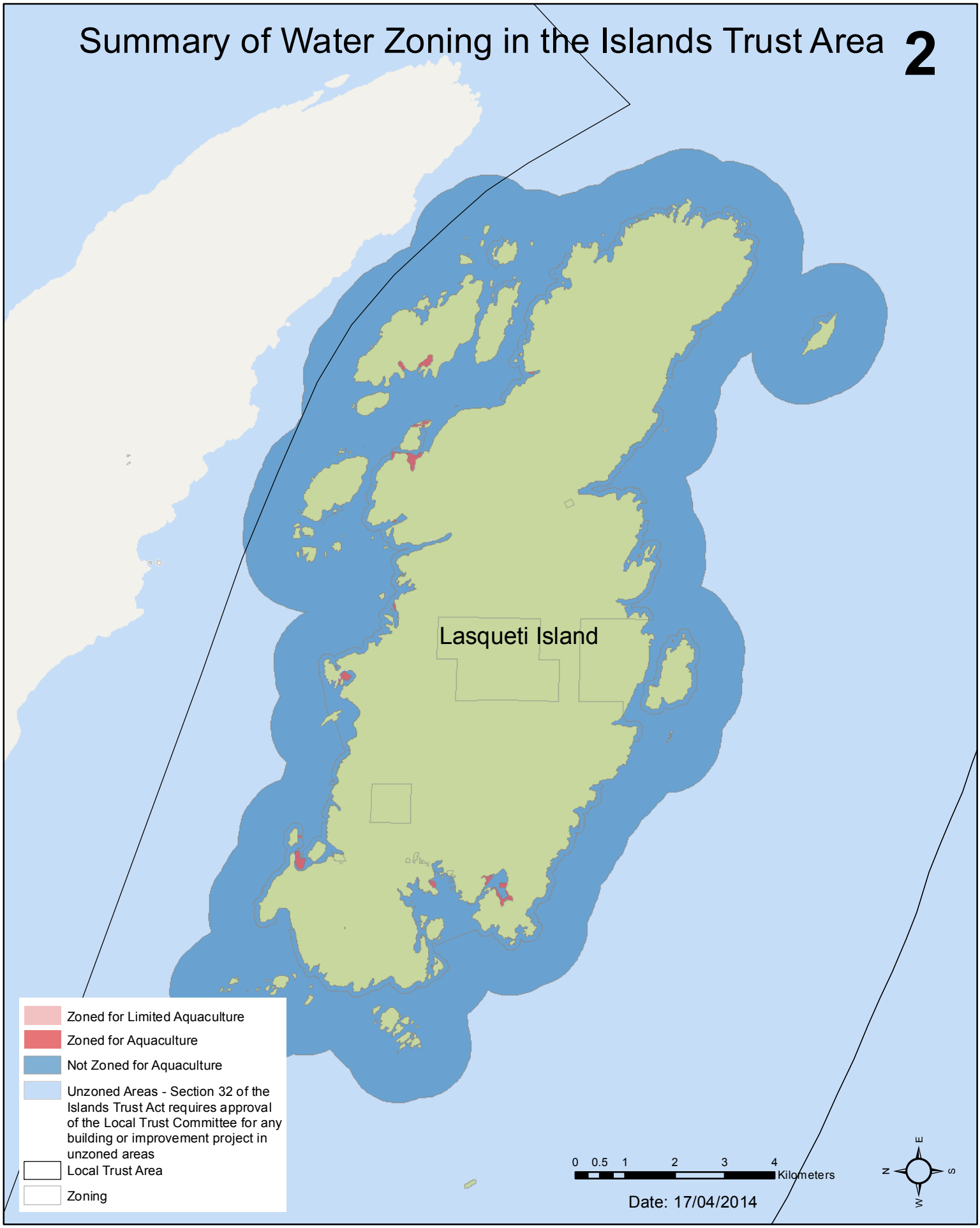
Attach 2

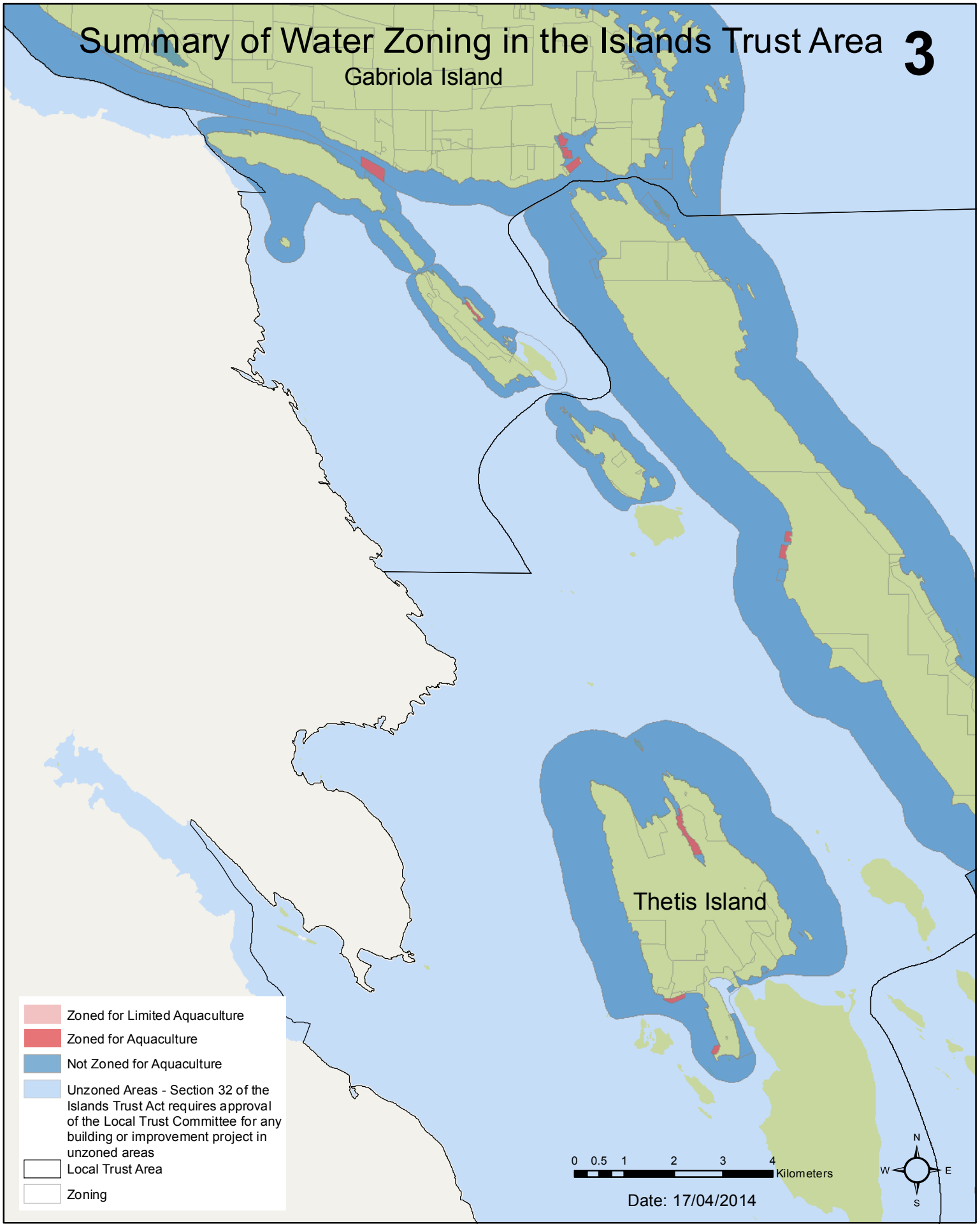
Summary of Water Zoning in the Islands Trust Area

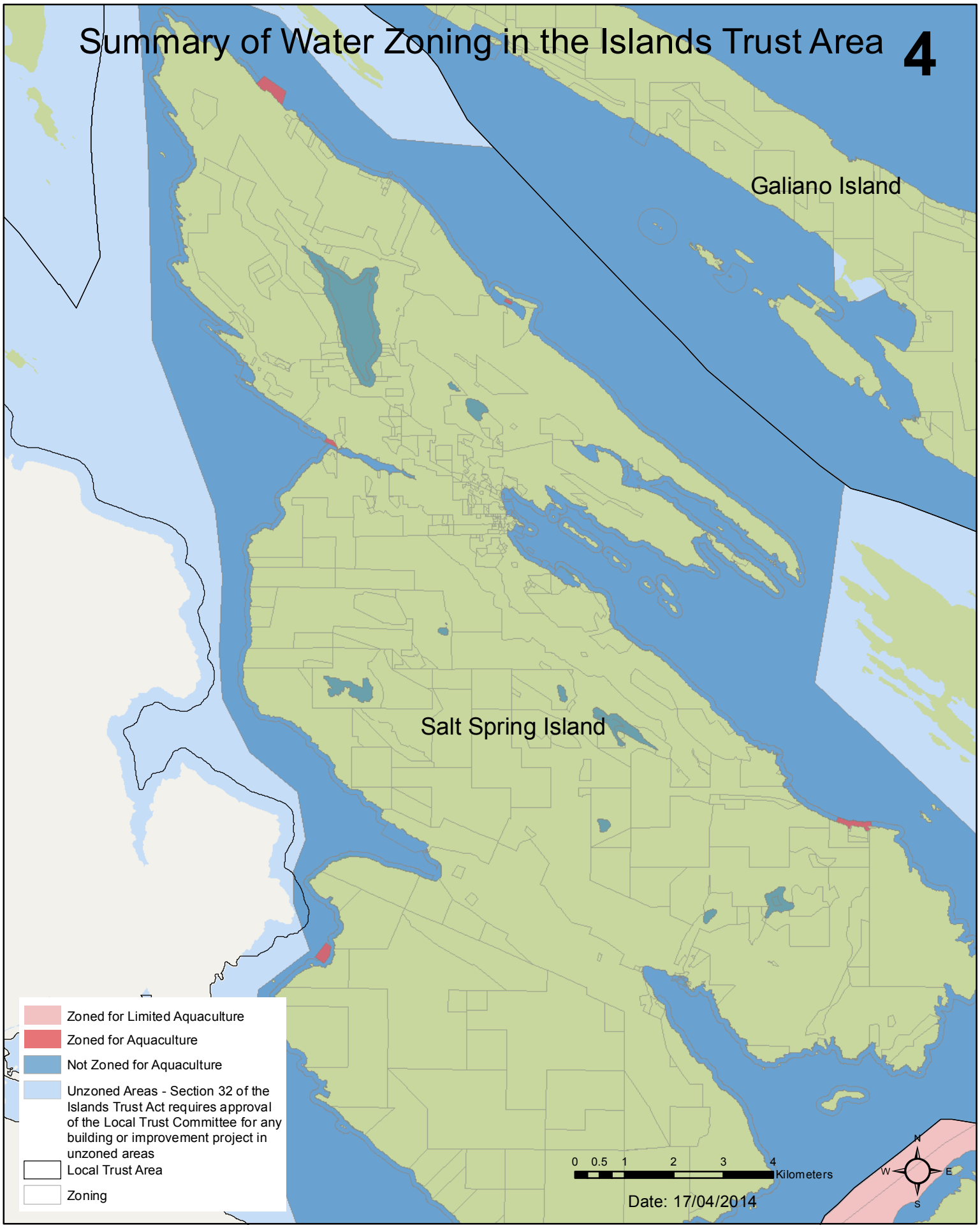


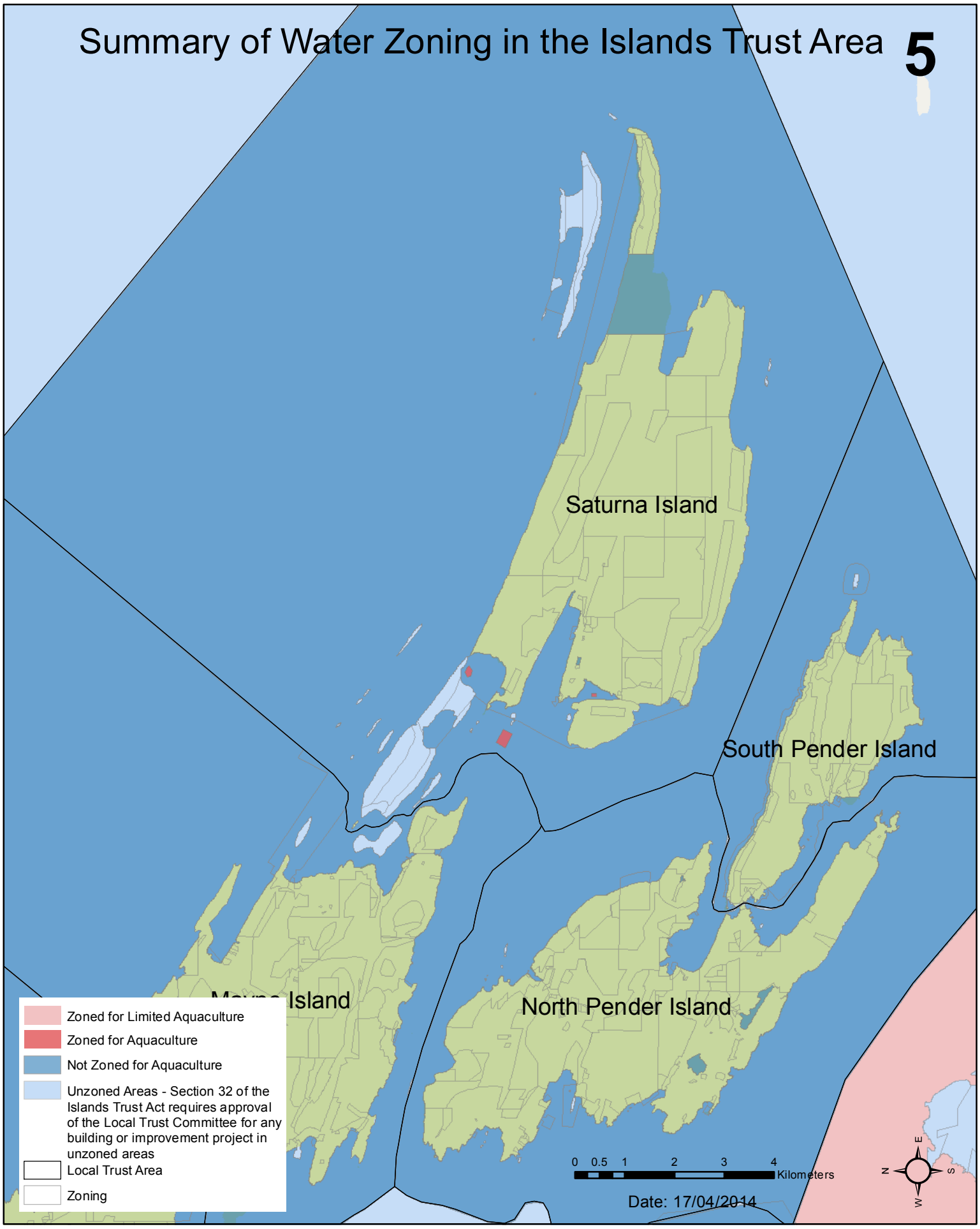

Summary of Water Zoning in the Islands Trust Area
1
Denman Island
Hornby Island
Zoned for Limited Aquaculture
Zoned for Aquaculture
Not Zoned for Aquaculture
Unzoned Areas - Section 32 of the Islands Trust Act requires approval of the Local Trust Committee for any building or improvement project in unzoned areas
Local Trust Area
Zoning
0 0.5 1 2 3 4
Kilometers
N
W
E
S
Date: 17/04/2014

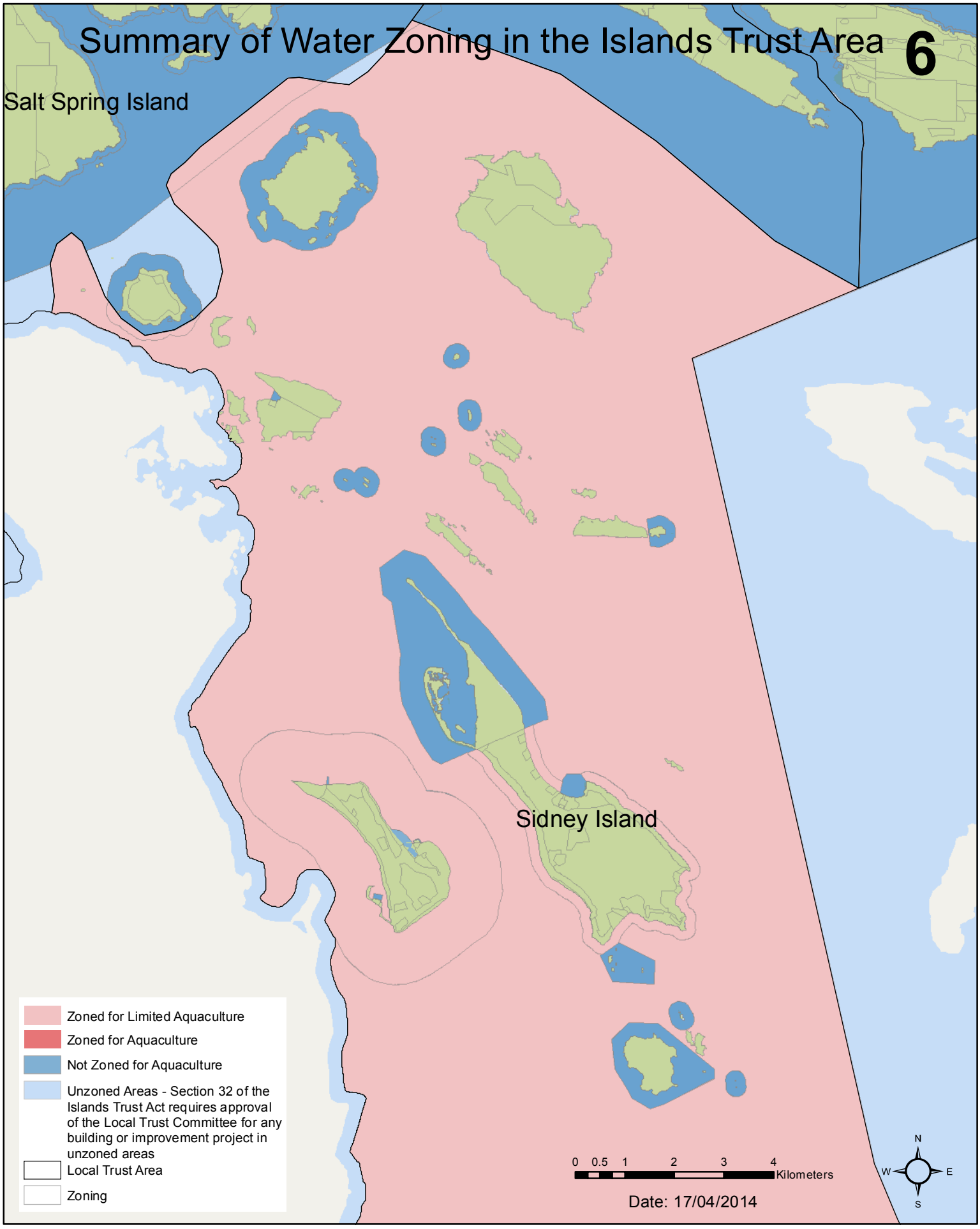
Summary of Water Zoning in the Islands Trust Area 2




Summary of Water Zoning in the Islands Trust Area
3
Gabriola Island
Thetis Island
Zoned for Limited Aquaculture
Zoned for Aquaculture
Not Zoned for Aquaculture
Unzoned Areas - Section 32 of the Islands Trust Act requires approval of the Local Trust Committee for any building or improvement project in unzoned areas
Local Trust Area
Zoning
0 0.5 1 2 3 4
Kilometers
N
W
E
S
Date: 17/04/2014


Summary of Water Zoning in the Islands Trust Area
4
Galiano Island
Salt Spring Island
Zoned for Limited Aquaculture
Zoned for Aquaculture
Not Zoned for Aquaculture
Unzoned Areas - Section 32 of the Islands Trust Act requires approval of the Local Trust Committee for any building or improvement project in unzoned areas
Local Trust Area
Zoning
0 0.5 1 2 3 4
Kilometers
Date: 17/04/2014
N
W
E
S


Summary of Water Zoning in the Islands Trust Area
5
Saturna Island
South Pender Island
North Pender Island
Zoned for Limited Aquaculture
Zoned for Aquaculture
Not Zoned for Aquaculture
Unzoned Areas - Section 32 of the Islands Trust Act requires approval of the Local Trust Committee for any building or improvement project in unzoned areas
Local Trust Area
Zoning
0 0.5 1 2 3 4
Kilometers
Date: 17/04/2014
N
E
S
W


Summary of Water Zoning in the Islands Trust Area
6
Salt Spring Island
Sidney Island
Zoned for Limited Aquaculture
Zoned for Aquaculture
Not Zoned for Aquaculture
Unzoned Areas - Section 32 of the Islands Trust Act requires approval of the Local Trust Committee for any building or improvement project in unzoned areas
Local Trust Area
Zoning
0 0.5 1 2 3 4
Kilometers
Date: 17/04/2014
N
W
E
S

Shellfish Aquaculture Licence Under the Pacific Aquaculture Regulations

Licence For: Aquaculture

Licence No: AQSF «DFO__LicNo» 2013

Date Issued: «DFOIssue_Date»

Expiry Date: «DFO_EXPIRYDATE»

ISSUED TO: «Licence_Holder»
«Company_Name»

This licence is issued under the authority of the *Fisheries Act* and confers, subject to provisions of the *Fisheries Act* and Regulations made there under, the authority to carry out aquaculture activities including cultivation and harvest of fish and prescribed activities under the conditions included herein and/or attached hereto.

It is the responsibility of the licence holder to obtain all other forms of authorization from federal or provincial agencies that may have jurisdiction for shellfish aquaculture. As well, it is the responsibility of the licence holder to be informed of, and comply with, the Fisheries Act and the regulations made there under, in addition to these conditions.

The above licence holder is authorized by this licence to carry on the business of aquaculture at following location and for the following species:

Facility Reference Number	Location and Legal Description
«SITEREFERENCENUMBER»	Licensed Area Location: «SiteCommonName» Legal Description: «LEGALDESCRIPTION» Land File No: «LANDFILE_NUMBER» Tenure Document No: «TENURE_DOCUMENT_NUMBER» DFO Subarea: «SubArea»

Common Species Name / Scientific Species Name:

«Species_1»
«Species_2»
«Species_3»
«Species_4»
«Species_5»
«Species_6»
«Species_7»

Site Specific Conditions:

See attached licensed conditions.

Required Record Keeping and Reporting: Details are contained within the attached conditions of this licence.

Compliance Advisory: Contravening a condition of this licence is an offence under the *Fisheries Act.*

This licence includes further conditions that are included herein and/or attached hereto. These conditions form part of the licence and may not be removed.

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SHELLFISH AQUACULTURE LICENCE CONDITIONS

PART A. Definitions

"Aquaculture activities" includes the seeding, cultivation and harvesting of fish, the operation of machinery including vehicles and vessels, the installation of structures and anchors and the maintenance of machinery, structures and equipment.

"By-catch" means non-cultivated individuals of the licensed species taken in addition to the fish deliberately placed on the licensed area.

"Cultivate" means growing shellfish at any life stage, through the provision of a growing area, and may include structures to contain or protect shellfish in any life stage to enhance survival or production.

"Department" means the Department of Fisheries and Oceans.

"Facility" means the collective structures licensed and required for the purposes of aquaculture, including growing area, walkways, barges, floats and living accommodations plus associated lines and anchors.

"Growing area and structure" means intertidal or subtidal substrate and structures, including, but not limited to, trays, longlines, lantern nets, vexar pouches, rack and bags, predator nets or tubes.

"Harvest" means the removal of shellfish from the substrate or structure where they are being cultivated

"Importation" means bringing shellfish into British Columbia from another province or country.

"Incidental Catch" for the purposes of marine shellfish aquaculture means fish species that:
(a) are not specifically named on the face of the aquaculture licence; and
(b) set naturally on aquaculture gear or with the licensed species.

"Intertidal growing area" means the area between high tide and chart datum.

"Introduce" means introduce fish to the marine environment from a hatchery or other fish breeding or holding facility.

"Introduction" means the transport and release of live fish (seed, spat, eggs, juveniles or adults) into waters outside their present range, and includes movement of fish from a hatchery or other fish breeding or holding facility to the marine environment.

"Introductions and Transfers Committee" means the Federal-Provincial joint committee responsible for reviewing applications for the introductions and transfers of fish and providing recommendations on issuance of the associated licences.

"Introductions and Transfers Licence" means a licence issued to authorize movements of fish that are not covered by the conditions of the shellfish aquaculture licence, formerly called a Specific Shellfish Transfer Licence (SSTL).

"Licensed Area" means the area within which aquaculture activities that are authorized by the aquaculture licence may occur.

"Operator" means a person who oversees the operation of a site, who owns or tenures the site or is authorized by the licence holder to act for the licence holder respecting the operation of the licensed site.

"Pacific Fishery Management Area" means areas described in the *Pacific Fishery Management Area Regulations* and available at http://www.pac.dfo-mpo.gc.ca/fm-gp/maps-cartes/areas-secteurs/index-eng.htm.

"Qualified Individual" means a licence holder, an individual employed by or contracted by the licence holder who, in the opinion of the licence holder, possesses a combination of knowledge, expertise and experience necessary to complete the task and who can provide an attestation to the integrity of new or amended facilities.

"Seed" means a submarket size bivalve shellfish requiring a minimum of 6 months to reach market size under normal growing conditions, and that has been gathered directly from the wild or grown in a hatchery. "Shellfish Site Management Plan" means a site management plan or a joint Provincial/ Federal Pacific Shellfish Aquaculture Application that has been submitted to the Department for approval and may form a part of the Conditions of the Licence

"Spat" means a bivalve mollusc in the larval stage, especially when it settles to the bottom and begins to develop a shell.

"Transfer" means the movement of individuals of a species or population of live fish (seed, spat, eggs, juveniles or adults) from one location to another within its present range and includes transfers to or from a hatchery or other fish breeding or holding facility**.**

"Wet Storage" means the temporary storage of live shellfish from approved sources, intended for marketing, in containers or floats in natural bodies of seawater or in tanks containing natural or synthetic seawater

PART B. General Licence Conditions

1. Application and Licensed Species

1.1 This licence authorizes the licence holder to:

(a) cultivate and harvest the species listed as part of the "Species" section on the face of this licence.
(b) conduct aquaculture activities within the "Licensed Area" described on the face of this licence.

1.2 This licence, or a copy of it, shall be kept on-site or on persons working at the site and shall be made available for inspection upon the request of a fishery officer, fishery guardian, or inspector.

2. Site Management Plan

2.1 The licence holder shall have a shellfish aquaculture site management plan containing the elements described in Appendix I. Any proposed changes to the management plan shall be submitted to Front Counter British Columbia for consideration and approval.

2.2 The submission for changes to the shellfish aquaculture management plan shall be made in the form of a joint Provincial/Federal Pacific Shellfish Aquaculture Application.

2.3 Once the shellfish aquaculture site management plan is approved, the licence may be amended to include the site management plan and its implementation shall be a condition of licence.

3. Facility Installation and Inspection

3.1 The licence holder shall ensure that site improvements, grow-out equipment and structures are capable of withstanding adverse weather conditions.

3.2 The licence holder shall have the facility (other than intertidal growing area) inspected by a qualified individual who can confirm and attest that the facility design, equipment and anchoring systems are designed and installed in such a way and using such equipment as to be able to withstand the prevailing oceanographic and meteorological conditions of the licensed location.

(a) The inspection required shall be carried out:

(i) When the facility is first installed and before any fish are initially introduced or transferred to the facility; and

(ii) Any time alterations to the facility are authorized under the licence.

(b) The licence holder shall require the inspection attestation report in writing prior to the introduction or transfer of fish to the facility.

3.3 The written attestation described in Section 3.2 above shall be made available for inspection upon request of a fishery officer, fishery guardian or inspector.

Note: A sample attestation is provided in Appendix II.

3.4 The licence holder shall conduct inspections of equipment, installation methods and anchoring systems at the licensed area, as required, or at least once a year, to identify and address site structural or equipment integrity that may influence the ability of the facility to withstand the prevailing oceanographic and meteorological conditions of the licensed location.

4. Introduction or Transfer of Fish

4.1 Other than in licence areas that are closed by Prohibition Order under the *Management of Contaminated Fisheries Regulations*, the licence holder may transfer live seed, spat, juvenile shellfish (except Geoduck, Sea Cucumber, Sea Urchin, Varnish Clam or Olympia Oyster) to, or from the licensed area and another licensed area possessing a valid aquaculture licence provided that:

(a) The species of live shellfish are listed as part of the "Species" section on the face of this licence.

(b) The receiving area possesses a valid aquaculture licence for the species.

(c) The licensed areas are within the following Shellfish Transfer Zones (as identified in Appendix III (Figure 1 Map of Shellfish Transfer Zones)) and are licensed for:

(i) Manila Clams (*Venerupis philippinarum*) – may transfer within all Zones; and from any zone to Zone 5; and between Zones 1, 2, 3 and 4; Pacific Oysters (*Crassostrea gigas*) – may transfer within or between Zones 1 and 2;

(ii) Pacific Oysters (*Crassostrea gigas*), subject to subsection 11.3, may transfer within or between Zones 3, and 4 and from Zones 3 and 4 to Zone 5, and within Zone 5;

(iii) Kumamoto Oysters (*Crassostrea sikamea*) – may transfer within Zone 4 only; and

(iv) For all other licensed species – may transfer within the same Zone only

(d) The shellfish at the licensed area do not display any observable symptoms of significant diseases as listed in Appendix IV (List of Known Shellfish

Diseases of Concern) or other infectious agents of concern to the Introductions and Transfers Committee.

4.2 For transfers of species or movements not listed in Section 4.1(c) of this licence or where the above conditions cannot be met, an Introductions and Transfers Licence must be applied for and issued prior to transfer.

(a) A copy of the Introductions and Transfers Licence shall accompany all shipments of fish to and from this licensed area.

Note: Application for this Introductions and Transfers Licence must be made to the Introductions and Transfers Committee at famitc@dfo-mpo.gc.ca. Further information and application forms can be found at the website: http://www.dfo-mpo.gc.ca/aquaculture/regions/pac/introduction-eng.htm

5. Access to Wild Fish

5.1 The licence holder may:

(a) collect spat of the licensed species on the licensed area;

(b) retain by-catch of wild shellfish of the licensed species on the licensed area when they are harvested as by-catch along with the cultivated licensed species.

5.2 For access to wild fish other than described in 5.1(a) and 5.1(b) a separate licence must be applied for and issued prior to collecting or retaining wild fish.

Note:
For further information please contact the Department at famitc@dfo-mpo.gc.ca.
A form for Application for Access to Wild Aquatic Resources will be made available at the website:
http://www.dfo-mpo.gc.ca/aquaculture/regions/pac/introduction-eng.htm

6. Fish Health

6.1 The licence holder and operator shall ensure that the fish cultivated and grown in the licensed area are given care and attention consistent with their biological requirements.

7. Escapes or Releases

7.1 The licence holder and operator shall take all reasonable precautions to prevent the escape or release of cultured fish:

(a) while transporting fish on, over or through fresh or tidal waters; and

(b) while transporting fish to or from the licensed area or facility.

8. Incidental Catch

8.1 The licence holder shall not retain incidental catch, with the exception of Varnish Clams which may be retained

9. Predator Control

9.1 The licence holder shall report immediately upon discovery any marine mammal accidental drowning mortality to the Department's Observe, Record and Report (ORR) fax line at 1-604-607-4156 or call 1-800-465-4336. The report is to be in the form found in Appendix V.

9.2 Should a Marine Mammal be observed entangled but not dead, the licence holder shall, upon discovery, make all reasonable attempts to free the animal without harm and report to the Department's Observe, Record and Report (ORR) fax line at 1-604-607-4156 or call 1-800-465-4336.

9.3 The licence holder is prohibited from using acoustical deterrent devices for marine mammals.

9.4 The licence holder shall ensure that, when predator exclusion devices are approved in a shellfish site management plan:

(a) predator exclusion devices are constructed are constructed to prevent entrapment and avoid potential injury to fish species or wildlife; and

(b) predator exclusion devices are maintained, inspected and repaired on a regular basis.

10. Protection of Fish Habitat

10.1 Dredging, infilling or redistribution of native beach materials is prohibited by this licence, unless expressly approved in a DFO approved Site Management Plan.

10.2 The licence holder shall not conduct harvest activities, or handle equipment that is covered with herring spawn through to the hatch of herring eggs.

10.3 The licence holder shall not conduct activities in specific sand lance spawning substrates (sand) in upper intertidal (above 2.6 m) during spawning windows.

10.4 The licence holder shall not disturb squid spawn if present on equipment or structures.

10.5 The licence holder shall not conduct aquaculture activities in eelgrass beds.

10.6 The licence holder shall operate machinery in a manner that minimizes disturbance to the intertidal areas and other fish habitat.

10.7 Machinery Operations:

(a) The licence holder shall ensure all machinery used on-site is in clean condition and maintained free of fluid leaks.

(b) The licence holder shall keep an emergency spill kit on board or on site where machinery is used in case of fluid leaks or spills from machinery.

10.8 The licence holder shall avoid locating moorings in important fish habitat and shall minimize disturbance to submerged aquatic vegetation when securing mooring structures to the seabed.

10.9 The licence holder shall ensure moorings (including anchors and floats) are made of clean material. Concrete anchors shall be pre-cast and pre-cured away from the water before use to prevent seepage of potentially toxic substances into the water body.

10.10 The licence holder shall ensure mooring anchors are adequately sized to secure culture apparatus, floats and equipment and prevent the anchor from shifting or dragging along the seabed.

10.11 The licence holder shall not use native beach material (i.e. logs, sand, gravel, boulders) as mooring structures unless approved in the Site Management Plan and in the written attestation for the licensed area as per Section 3(2).

10.12 The licence holder shall ensure that "Styrofoam" used for floatation is securely wrapped in an acceptable containment material. Any flotation material that is degrading or is otherwise no longer in use shall be removed from the marine environment and disposed of at land-based facilities.

10.13 The licence holder shall design, construct and maintain structures to maximize openings to increase light penetration and prevent shading of subtidal eelgrass (*Zostera marina*) and other fish habitat.

10.14 The licence holder shall ensure biofouling, fish mortalities and shell debris are disposed of within the licensed area in such a way that build-up on the seabed does not occur, or at an approved composting facility. Other refuse shall be taken to a landfill or off-site for disposal as appropriate.

10.15 The licence holder shall prevent culture equipment from smothering or damaging marine life and/or habitat.

10.16 The licence holder shall not store any aquaculture gear, materials, equipment or debris in any intertidal zone or riparian vegetation, unless the gear is utilized in that location as part of the regular aquaculture activity that is approved for the licensed area.

11. Harvesting and Handling

11.1 In respect of tagging containers of shellfish:

(a) The licence holder shall immediately place all shellfish that are harvested for transport to market sale in containers that have a visible waterproof tag identifying the Harvester's Name, Species, Pacific Fishery Management Area, Land File or Parcel Identification Number, Date of Harvest, the Aquaculture Licence Number and the Facility Reference Number.

(b) Each container of harvested shellfish that are removed from their growing area or structure and left unattended at the licensed area shall be identified with a tag displaying the Aquaculture Licence Number and the Facility Reference Number, or identified by a visible group tag noting the Aquaculture Licence Number and Facility Reference Number and number of containers in the group, displaying, at minimum, the Aquaculture Licence Number.

11.2 For the purposes of wet storage of market-sized bivalves, the licence holder shall not wet-store shellfish originating from other than the licensed area unless written approval has been received from the Canadian Food Inspection Agency.

Note: Information and applications on wet storage are available from:

Canadian Food Inspection Agency
457 East Stanford Ave.
Parksville, BC
V9P 1V7
Phone: 250-248-4772; Fax: 250-248-6776

11.3 Measures to prevent the spread of European Green Crab.

(a) In Pacific Fishery Management Areas 23 to 27 the licence holder shall thoroughly examine harvested shellfish (oysters, clams, scallop, and mussels) for signs of European Green Crab, and rinse the harvested shellfish prior to being removed from the harvest area.

(b) Shellfish culture gear (trays, lines, etc) shall be thoroughly examined and rinsed prior to removal from growing areas in Pacific Fishery Management Areas 23 to 27 for use in another area.

(c) Shellfish harvested from Pacific Fishery Management Areas 23 to 27 shall be wet stored or grown out only at approved licensed areas in Pacific Fishery Management Areas 23 to 27. Shellfish may be wet stored in tanks within licensed processing facilities where such activity is approved in the Quality Management Plan.

(d) Shucked oyster shell from Pacific Fishery Management Areas 23 to 27 shall not be placed in or adjacent to the intertidal zone where it may be washed by the tide or where any entrapped crabs may reasonably travel to the shore until the shell refuse is sufficiently desiccated to kill any crab or crab larvae that may have accompanied the shipment.

(e) Transport water from Pacific Fishery Management Areas 23 to 27 discharged in other areas shall be disposed of in such a manner that the water does not run back to the intertidal shore or enter intertidal waters.

(f) Transport containers from Pacific Fishery Management Areas 23 to 27 shall be rinsed in such a manner that the water does not run back to the intertidal shore or enter intertidal waters.

Note: Additional requirements for harvest by species may be found in Part C.

12. Records

12.1 The licence holder shall maintain written or electronic records relating to the licensed aquaculture activities throughout the species growing cycle. The records shall contain the elements listed in Section 12.2. Records shall be produced upon request by a fishery officer, fishery guardian, or inspector.

12.2 The licence holder shall record, within 24 hours, the importation or introduction of shellfish to the licensed area, the transfer of shellfish from the licensed area and harvest for market sale. Records shall include shellfish wet stored at the licensed area(s) from other locations prior to market sale. The licence holder shall record

(a) Aquaculture Licence Number(s), Facility Reference Numbers, or groups of Aquaculture Licence or Facility Reference Numbers associated with the licence holder for sites in the same Pacific Fishery Management Area;

(b) Activity date;

(c) Species common name;

(d) The nature of the activity (i.e. Activity Code (IP – Importation) (IN – Introduction) (TS – Transfer) (H – Harvest for Market Sale)

(e) Number of containers;

(f) Container type,

(g) Average container weight, OR total estimated weight OR, estimated number of individuals;

(h) Source of shellfish arriving at the site (source licence number, or other); and

(i) Destination of shellfish leaving the site (destination site licence number, shellfish buyer, or market sale processor).

Note: A sample of the Importation, Introduction and Transfer Record Logbook, in a format acceptable to DFO, is included in Appendix VI.

12.3 For the purposes of keeping records (Section 12.2), licence holders with more than one licensed area located within in a Pacific Fishery Management Area may use a single logbook, or record group for those licensed areas and may consider their licensed areas as a single unit for recording importations, introductions and transfers. Routine introductions and transfers of licensed shellfish species may occur between such licensed areas as long as the individual licensed areas have a valid aquaculture licence for the species and type of culture activity. Such licensed areas may operate as a single unit without recording individual introductions and transfers between those licensed areas.

12.4 For all transfers of shellfish that are leaving the licensed area for grow-out at another destination, (at a site held by another licence holder, or in a different Pacific Fishery Management Area), shall be accompanied by a record of the date, source, destination, species and amount of shellfish in transit.

12.5 Records for all shellfish harvested for market sale shall be maintained and recorded for each licensed site.

Note: Container tagging requirements apply to shellfish products that are destined to market sales (Section 11.1).

12.6 The licence holder shall keep and maintain a log of facility inspections conducted under Section 3.4 and of equipment maintenance actions. The facility inspection and maintenance log above shall be made available for inspection upon request of a fishery officer, fishery guardian, or inspector.

13. Annual Aquaculture Statistical Report

13.1 Not later than January 25th annually the licence holder shall complete and submit to the Department, an Annual Aquaculture Statistical Report for the previous calendar year

(a) Annual Aquaculture Statistical Reports shall be submitted to Fisheries and Oceans Canada at the following email address: fishstats@dfo-mpo.gc.ca

Note: The Annual Aquaculture Statistical Report may be found in Appendix VII and will be mailed/emailed to each licence holder. Licence holders with multiple aquaculture facilities may choose to submit the AASR electronically using a separate excel spreadsheet which the Department has created for this purpose. To request a copy of this spreadsheet version, please email fishstats@dfo-mpo.gc.ca.

14. Administrative Matters

14.1 Unless otherwise noted in specific licence conditions, all reports and submissions required by this licence shall be submitted by email, fax or mail to the Department at:

Aquaculture Resource Management
Fisheries & Oceans Canada
1965 Island Diesel Way
Nanaimo, BC, V9S 5W8
Fax: 250-754-0391
Email: Shellfish.Aquaculture@dfo-mpo.gc.ca

PART C. Additional Conditions by Species or Activity

1. General Culture of Bivalve Species

In addition to conditions in Part B and Part C (3), where applicable, the following conditions are applicable, if licensed for any of the following species:

Pacific Oyster	*Crassostrea gigas*
American Oyster	*Crassostrea virginica*
European Oyster	*Ostrea edulis*
Kumamoto Oyster	*Crassostrea sikamea*
Eastern Blue Mussel	*Mytilus edulis*
Western Blue Mussel	*Mytilus. trossulus*
Olympia Oyster	*Ostrea conchaphila*
Gallo Mussel	*Mytilus galloprovincialis*
Japanese Scallop	*Mizuhopecten yessoensis*
Pacific (Hybrid)	*M. yessoensis x Patinopecten*
Giant Rock Scallop	*Crassadoma gigantea*
Pink Scallop, Spiny Scallop	*Chlamys rubida, Chlamys hastata*
Horse Clam	*Tresus capax*
Pacific Geoduck	*Panopea generosa*
Littleneck Clams	*Protothaca staminea*
Manila Clams	*Venerupis philippinarum*
Varnish Clams	*Nuttallia obscurata*
Butter Clams	*Saxidomus gigantea*
Cockles	*Clinocardium nuttallii*

1.1 The licence holder shall:

(a) Land all harvested bivalves at a federally registered processing plant prior to sale for human consumption.

(b) Mark intertidal tenure boundaries with the industry standard red concrete blocks as specified in Appendix VIII, or alternative marking as approved on the Site Management Plan.

(c) With respect to varnish clams (*Nuttallia obscurata*):

(i) Not seed, transplant or in any other manner engage in aquaculture activities with varnish clams other than harvesting for market sale.

(ii) Varnish clams may be harvested and retained as incidental catch.

(d) With respect to Pacific Oyster, undertake spat collection activities in the following Pacific Fishery Management Areas, only in portions that are not closed by Prohibition Order:

(i) Pendrell Sound - portion of Pacific Fishery Management Areas 15-5 – for Introductions and Transfers within and between Zones 3, 4, and 5.

(ii) Hotham Sound – Pacific Fishery Management Area 16-12 – for Introductions and Transfers within and between Zones 3, 4, and 5.

(iii) Pipestem Inlet - portion of Pacific Fishery Management Area 23-10 – for Introductions and Transfers within Zone 5 to Pacific Fishery Management Areas 23 to 27 only.

(iv) Nesook Bay – portion of Pacific Fishery Management Areas 25-5 – for Introductions and Transfers within Zone 5 to Pacific Fishery Management Areas 23 to 27 only.

(e) With respect to spat collection activities from locations identified in Part C Section 1.1(d), notify the Department using the Spat Collection Notification Form in Appendix IX, prior to setting out spat collection gear.

1.2 The licence holder shall not:

(a) Cultivate, store, or harvest bivalves within 125 m of any floating living accommodation on the licensed area unless:

(i) the cultivated bivalves are seed, and

(ii) a licence under *Management of Contaminated Fisheries Regulations* has been obtained for the licensed area to harvest seed from a prohibited area; or

(iii) An approved Zero Discharge Waste Management Plan is in place that reduces the prohibited harvest area to 25m (see Appendix X).

(b) Harvest bivalves within 125 m of any finfish net pen unless an approved Integrated Multi-Trophic Aquaculture Management Plan is in place that specifies the prohibited harvest area.

2. General Culture of Sea Urchin/Sea Cucumber

2.1 In addition to conditions in Part B, the following conditions are applicable if licensed for any of the following species:

(a) Sea Urchin:

Red	*Strongylocentrotus franciscanus*
Green	*S. droebachiensis*
Purple	*S. purpuratus*

(b) Sea Cucumber: California *Parastichopus californicus*

2.2 If a licence holder is cultivating one or more of the species listed in Part C Section 2.1, the licence holder shall:

(a) Related to seeding the licensed area:

(i) Comply with the Introductions and Transfers requirements in Part B Section 4,

(b) Related to his/her Harvest Plan:

(i) Not less than 30 days prior to the first intended harvest at the licensed area, submit a written Harvest Plan to the Department for approval;

(ii) The Harvest Plan shall contain a summary of sea cucumber or sea urchin seeding or husbandry activities that have taken place, an estimate of inventory of marketable sea cucumber or sea urchin in the licensed area including wild set individuals, the projected harvest dates or number of harvest days, anticipated harvest amount for the current year, and the destination processing plant or plants.

(iii) Not harvest any sea urchins or sea cucumbers without a Harvest Plan approved by the Department; and

(iv) Follow and comply with the Harvest Plan approved by the Department at all times and have it available for inspection upon the request of a fishery officer, fishery guardian, or inspector.

Note: Upon approval of the Harvest Plan the Department (or its designate) will provide the licence holder with an Introduction Transfer or Harvest Notification Form for Geoduck, Sea Cucumber or Sea Urchin (Appendix XI) and a Sea Cucumber/Sea Urchin Aquaculture Landing Logbook.

(c) Related to Harvest Notification

(i) Notify the Department not less than 72 hours prior to any Sea Cucumber/Sea Urchin harvest, using a completed Introduction Transfer or Harvest Notification Form for Geoduck, Sea Cucumber or Sea Urchin (Appendix XI);

(ii) Notify all contacts identified on the Introduction Transfer or Harvest Notification Form for Geoduck, Sea Cucumber or Sea Urchin (Appendix XI) by facsimile or electronic mail; and

(iii) Submit an amended Introduction Transfer or Harvest Notification Form for Geoduck, Sea Cucumber or Sea Urchin (Appendix XI) if harvest plans change.

(d) Landing Reports

(i) Complete an approved Sea Cucumber/Sea Urchin Aquaculture Landing Logbook form for each shipment landed. A copy of the completed landing log shall accompany each shipment of harvested sea cucumber or sea urchin from licensed area to the buyer or processing plant.

(ii) Scan and email or fax a copy of each days Landing Logbook form(s) to the following location not later than 24 hours following product landing:

Aquaculture Resource Management
Fax: 250-754-0391
or by email to shellfish.aquaculture@dfo-mpo.gc.ca

(iii) Submit the completed DFO copy of Landing Logbook forms quarterly (i.e. during the 1st week of April, July, October and January) to:

Aquaculture Resource Management
1965 Island Diesel Way
Nanaimo, BC V9S 5W8
Fax: 250-754-0391
or by email to shellfish.aquaculture@dfo-mpo.gc.ca

Note: Licence holders are responsible for ensuring a scale, legal for trade, is used to obtain accurate weights of sea cucumber or sea urchin landed.

Note: All sea cucumber or sea urchin brood stock from a location other than the licensed area must be obtained via an Access Licence for brood stock collection issued by the Minister. In addition, an Introductions and Transfers Licence is required to transfer brood stock to a hatchery.

3. General Culture of Geoduck

3.1 In addition to conditions in Part B and Part C (1), where applicable for the species, the following conditions apply if licensed for

(a) Geoduck *(Panopea generosa)*

3.2 Site Marking

The licence holder shall mark and maintain boundary marking of the licensed area as follows:

(a) In intertidal areas of the licensed area (shallower than chart datum), immediately upon receipt of an aquaculture licence for geoduck and before seeding or harvesting, mark tenure boundaries with the industry standard red

concrete blocks as specified in Appendix VIII or equivalent as approved on the Site Management Plan.

(b) In subtidal areas of the licensed area (deeper than chart datum), immediately upon receipt of an aquaculture licence for geoduck and before seeding or harvesting, mark the tenure boundaries of the licensed area in the following manner, or by other means explicitly approved in writing by the Department:

(i) with 25 lb. cement blocks spaced every 50 meters and bounded by sinking ground line.

3.3 Seeding

(a) The licence holder shall not seed a new site without authorization from the Department.

Note: authorization may be dependent on a pre-seed fishery. The requirement for a pre-seed fishery will be determined by the Department.

(b) Prior to seeding a new site the licence holder shall collect tissue samples from 100 individual geoducks from wild stocks within the **subtidal** licensed area and submit to the Department.

Note: Contact the DFO genetics lab at 250 756-7316 for specific equipment and instructions.

(c) The licence holder shall obtain separate authorization to transfer seed to the licensed area.

Note: An Introductions and Transfers licence issued under Section 56 of the Fishery General Regulations is required prior to the transfer of seed. Application for this licence must be made to the Introductions and Transfers Committee at famitc@dfo-mpo.gc.ca. Application forms are available on the website at http://www.dfo-mpo.gc.ca/aquaculture/regions/pac/introduction-eng.htm.

3.4 Harvest Plan

The licence holder shall:

(a) At least 30 days prior to the first intended harvest at the licensed area, submit a written Harvest Plan to the Department for approval;

(b) The Harvest Plan shall contain a summary of geoduck seeding and husbandry activities that have taken place, an estimate of inventory of marketable geoduck in the licensed area including wild set individuals, the projected harvest dates or number of harvest days, anticipated harvest amount for the current year, and the destination processing plant or plants.

(c) Not harvest any geoduck without a Harvest Plan approved by the Department; and

(d) Follow and comply with the Harvest Plan approved by the Department at all times and have it available for inspection upon the request of a Fishery Officer.

Note: Upon approval of the Harvest Plan the Department (or its designate) will provide the licence holder with an Aquaculture Introduction Transfer or Harvest Notification Form for Geoduck Sea Cucumber or Sea Urchin (Appendix XI), a Geoduck Aquaculture Landing Logbook, Geoduck Tag Inventory Record, and site specific Serial Numbered Tags.

3.5 Harvest Notification

The licence holder shall:

(a) Notify the Department no less than 72 hours prior to any Geoduck harvest, using a completed Introduction Transfer or Harvest Notification Form for Geoduck, Sea Cucumber or Sea Urchin (Appendix XI) by facsimile or electronic mail; and

(b) Submit an amended Introduction Transfer or Harvest Notification Form for Geoduck, Sea Cucumber or Sea Urchin (Appendix XI) if harvest plans change.

3.6 Harvest Container Tags

(a) The licence holder shall attach a completed site specific Serial Numbered Tag to each container of harvested geoducks on the vessel or beach where harvested. No container shall be left untagged on the site or during transport.

(b) Tags are to be visible and remain in the containers of harvested geoducks until delivered to a registered shellfish processing plant.

(c) Disposition of tag numbers shall be recorded on a Geoduck Tag Inventory Record. Geoduck Tag Inventory Records shall be kept up to date and shall be made available for inspection upon request. Lost or stolen tags must be reported to the Department immediately.

Note: Serial Numbered Tags and Tag Inventory Records are available from the Department (or its designate) after approval of the Harvest Plan.

3.7 Landing Reports

The licence holder shall:

(a) Complete an approved Geoduck Aquaculture Landing Logbook form for each shipment landed. A copy of the completed landing log must accompany each

shipment of harvested geoduck from the licensed area to the registered processing plant.

(b) Scan and email or fax a copy of each day's Landing Logbook form(s) to the following location not later than 24 hours following product landing:

Aquaculture Resource Management
Fax: 250-754-0391
or by email to shellfish.aquaculture@dfo-mpo.gc.ca

(c) Submit the completed DFO copy of Landing Logbook forms quarterly (i.e. during the 1st week of April, July, October and January) to:

Aquaculture Resource Management
1965 Island Diesel Way
Nanaimo, BC V9S 5W8
Fax: 250-754-0391
or by email to shellfish.aquaculture@dfo-mpo.gc.ca

Note: Licence holders are responsible for ensuring a scale, legal for trade, is used to obtain accurate weights of geoduck landed and recorded.

Note: All geoduck brood stock must be obtained via an Access Licence for brood stock collection issued by the Minister. In addition, an Introductions and Transfers Licence is required to transfer brood stock to a hatchery.

PART D. Information and Requirements for Shellfish Aquaculture Licence Holder

Appendix I: Elements of a Site Management Plan

1. Information provided as part of the Shellfish Site Management Plan (the management plan for the licensed area) will, at a minimum, include the following elements:

- Licence holder(s) and contact information
- Location and legal description of the site, including map(s)
- Culture Species
- Type of culture conducted at the site i.e. intertidal, subtidal on/in bottom, deepwater suspended, nursery operation
- Culture gear and physical structures details including rafts, longlines, nets, predator nets, etc. and the amount and placement of gear and structures
- Licence area layout, structures, boundary marking where applicable
- Maximum estimated production of cultured fish by species from this site per year or growing cycle.

A shellfish site management plan template, as part of the Provincial/Federal Pacific Aquaculture Application may be obtained from FrontCounter BC by the following means:

In Person: Any FrontCounter BC office.
Visit http://www.frontcounterbc.gov.bc.ca for the location nearest you.
By Mail: FrontCounter BC, 2080a Labieux Road, Nanaimo, BC V9T 6J9
By Email: frontcounterbc@gov.bc.ca

Appendix II: Attestation as to the Design and Structural Integrity of a Shellfish Aquaculture Operation

As required under Section 3 of the conditions of a **Shellfish Aquaculture Licence**: The licence holder shall have the facility (other than intertidal growing area) inspected by a qualified individual who can confirm and attest that the facility design, equipment and anchoring systems are designed and installed in such a way and using such equipment as to be able to withstand the prevailing oceanographic and meteorological conditions of the licensed location. The inspection is required when a new site is first installed, or when changes are made to the infrastructure. The Qualified Individual shall provide an attestation that shall be kept on file by the licence holder and provided for inspection upon request of the Department.

A "Qualified Individual" means a licence holder, or an individual employed by or contracted by the licence holder who, in the opinion of the licence holder, possesses a combination of knowledge, expertise and experience necessary to complete the task and who can provide an attestation to the integrity of new or amended facilities.

I hereby attest that I am a Qualified Individual under the above noted definition:

Name: _____ Ph: _____

Address: _____ Email: _____

My qualifications, knowledge and experience to accomplish the task are as follows:
_____
_____
_____

I hereby attest and confirm that I did carry out an inspection of the shellfish aquaculture site located at: _____
Aquaculture Facility Number: _____ and
Aquaculture Land File Number: _____ on the date: _____,
and that the facility, including the equipment and anchoring systems are designed and installed in such a way and using such equipment as to be able to withstand the prevailing oceanographic and meteorological conditions of the licensed location.

_____
Please print name

_____ _____
Signature Date

Appendix III: Introductions and Transfers

Sections 54, 55 and 56 of the Fishery (General) Regulations, made under the federal *Fisheries Act* allow the Minister to issue a licence to release fish into fish-bearing waters or to a fish-rearing facility.

Application for a licence must be made to the Introductions and Transfers Committee at famitc@dfo-mpo.gc.ca. Application forms for an Introductions and Transfers licence are available on the Department's website at: http://www.dfo-mpo.gc.ca/aquaculture/regions/pac/introduction-eng.htm.

Shellfish Transfer Zones

Figure 1 shows the five zones established for shellfish introductions and transfers in BC. These zones are generally delineated based on definable oceanographic and ecographic discrete areas (e.g. oceanic vs. inside waters). Consideration is also given to historical movements of shellfish in the aquaculture and commercial fisheries sectors for trade and commerce. For consistency and clarity, the transfer zones are illustrated in Figure 1 and defined by Fisheries and Oceans Canada (DFO) Pacific Fisheries Management Areas* in Table 1 (below).

The terms of the Shellfish Aquaculture Conditions of Licence (COL) specify the conditions under which licence holders may move shellstock within and between zones without an Introductions and Transfers Licence (I&TL)

Shellfish Aquaculture Licence holders may move stocks between licensed shellfish growing facilities ***within the same zone*** under the conditions of their Shellfish Aquaculture Licence as long as the receiving facilities are licensed for the species to be transferred

Additional authority under an Introductions and Transfers Licence (I&TL) may be required for species and/or zone transfers not listed below.

*Pacifc Fishery Management Area Maps are available at:
http://www.pac.dfo-mpo.gc.ca/fm-gp/maps-cartes/areas-secteurs/index-eng.htm

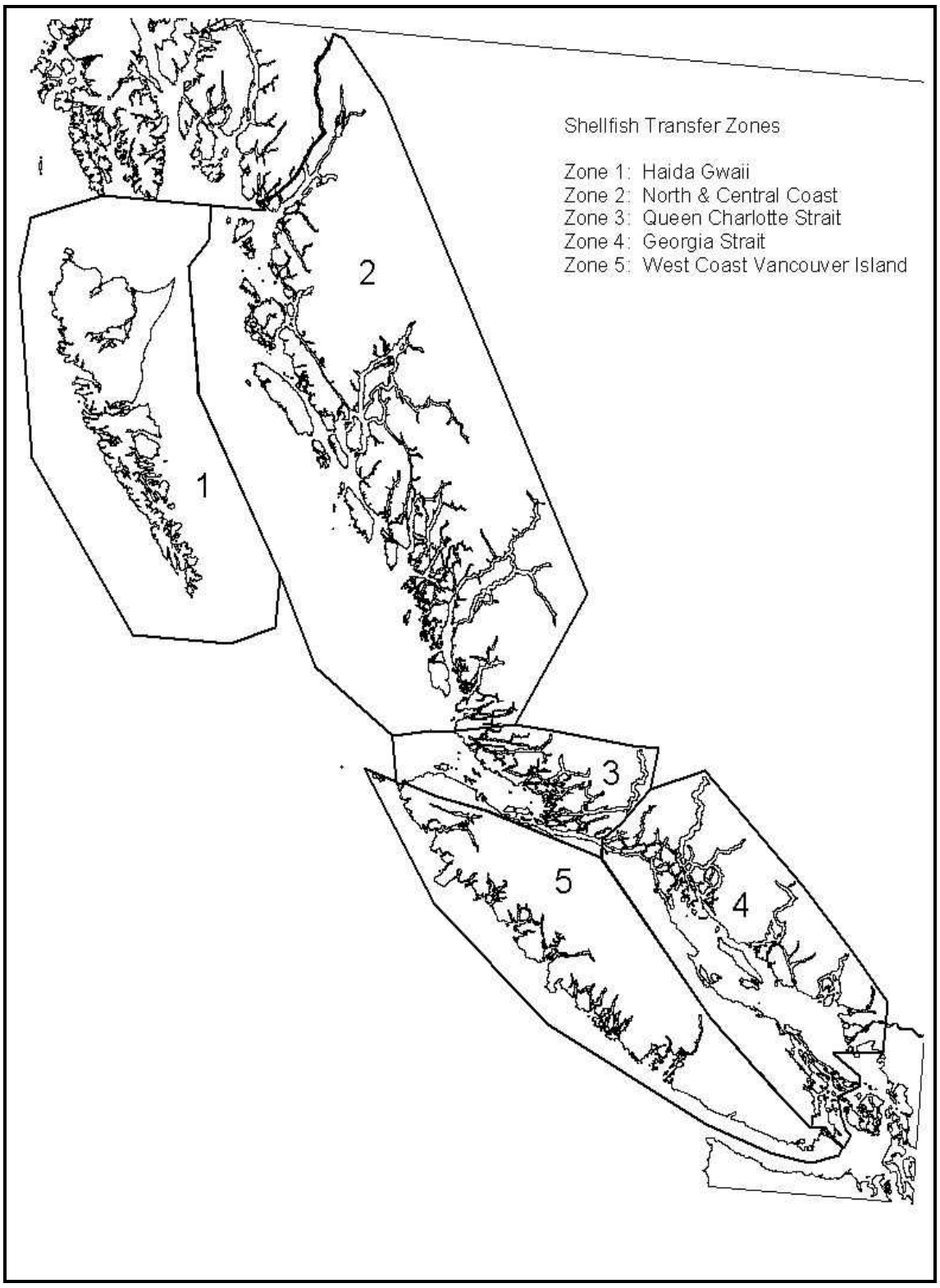


Figure 1. Map of Shellfish Transfer Zones

Table 1: Description of Shellfish Transfer Zones

Zone	**Name**	**Description**
1	Haida Gwaii	Contiguous waters surrounding Haida Gwaii within Areas 101, 102 and 142, and Areas 1 and 2.
2	North & Central Coast	Contiguous waters of the mainland coast within Areas 103 to 110, inclusive and Areas 3 to 10, inclusive.
3	Queen Charlotte Strait	Contiguous waters of Queen Charlotte and northern Johnstone Straits within Areas 111, 11 and 12.
4	Georgia Strait	Contiguous waters of southern Johnstone, Georgia and Juan de Fuca Straits within Areas 13 to 18, 19-4, 19-5, 19-6, 19-7, 19-8, 19-9, 19-10 inclusive, and Area 28 and 29.
5	West Coast Vancouver Island	Contiguous waters of the west coast of Vancouver Island within Areas 121 to 127, inclusive, Subareas 19-1, 19-2, 19-3, and Areas 20, to 27, inclusive.

SHELLFISH ZONES BY SPECIES

Shellfish already in natural waters may be susceptible to diseases or parasites found in that area. Not all disease and parasites are common to all areas and so movements of shellfish from one zone to another present risk of disease transmission, especially if a disease or parasite known in one zone is not known to occur in a receiving zone. Similarly, there may be risks of adverse ecological and genetic effects from moving shellfish from one zone to another. Based on our current knowledge of shellfish diseases and parasites in BC waters, and in consideration of ecological and genetic concerns, the following guidelines have been developed for movements of shellfish in natural waters.

Non-native Species

Table 2: Movement of Non-native Shellfish within Natural Waters

Species	**From**	**To**	**Licence**	**Comments**
Oysters				*See Note 1*
Pacific	Zones 1 & 2	Zones 1 & 2	COL	
		Zones 3, 4 & 5	I&TL	
	Zones 3, 4	Zones 3, 4, 5	COL	
		Zones 1 & 2	I&TL	
	Zone 5 *	Any Zone	I&TL	
Oysters				
European	Any Zone	Any Zone	I&TL	*See Note 2*
	Any Zone	Any Zone		
	Zones 1, 2 &3	Other Zone	I&TL	
American	Zone 4	Zone 4		

Kumamoto	Zone 5*	No Movement	I&TL COL	
Clams: Manila Varnish	Zones 1, 2, 3, & 4 _____ Zone 5* No Movement	Any Zone _____ No Movement No Movement	COL _ _____	*See Note 3* *See Note 4*
Mussels	Same Zone _____ Any Zone	Same Zone _____ Any Other Zone	COL _____ I&TL	*See Note 5*
Japanese Scallops (incl. hybrid)	Same Zone _____ Any Zone	Same Zone _____ Any Other Zone	COL _____ I&TL	*See Note 6*

* movements in Zone 5 are restricted to within Pacific Fishery Management Areas 23 to 27 in order to prevent the inadvertent spread of European Green Crab from these Areas to other areas of the coast

Notes:

1. **Pacific Oysters (*Crassostrea gigas*): Zones are divided north and south.**

   To date, two infectious diseases of oysters occur in BC, mikrocytosis and nocardiosis. *Mikrocytos mackini*, the causative agent of Denman Island disease, is thought to be ubiquitous throughout the Strait of Georgia, and has been detected at several locations in on the West Coast of Vancouver Island and Queen Charlotte Strait. Nocardiosis, caused by the Actinomycete bacterium, *Nocardia crassostreae*, seems to be confined to warm water conditions in the Strait of Georgia area. Due to the extensive historical exchange of oysters throughout southern British Columbia there is little justification for dividing this area into separate zones. However, the results of laboratory experiment indicate that ***M. mackini*** is more pathogenic to oysters under cool water conditions. Thus, Denman Island disease may be more problematic to oysters cultured in northern areas of the Province. Until further information is available northern BC will be considered a separate zone in attempts to protect this region from the consequences of an inadvertent disease introduction.

2. Oysters (*Ostrea edulis; Crassostrea virginica; Crassostrea sikamea*)

Although European and American oysters were introduced in limited areas to BC at the turn of the last century, they did not naturalize to the extent that the Pacific oyster has. Some remnant populations still exist in the wild and on a few tenures in Zone 4 and 5. In addition to the disease concerns expressed in Note 1, there may also be ecological and genetic concerns associated with these species that were not considered at the time of initial introduction. These concerns may need to be addressed through risk assessment by the ITC before more widespread introductions and transfers of these two species to other zones will be considered.

Kumamoto oysters have received a satisfactory risk assessment for Zone 4 and will continue to be allowed movement within that zone under COL. All other movements require an I&TL.

3. Manila clams (*Venerupis philippinarum)*

To date, no infectious diseases of concern have been detected in clams in British Columbia, despite extensive sampling. [This is not the case internationally. A protozoan pathogen, *Perkinsus* sp., is causing significant mortalities in some locations along the Pacific coast of Asia, and brown ring syndrome (caused by *Vibrio tapetis*) is detrimental to clam production in Europe.] The apparent lack of pathogens in manila clams in BC and their natural colonisation of most areas in southern BC justify having only one zone for this species. Movements are currently restricted from the west coast of Vancouver Island (Zone 5) due to concerns with European Green Crab.

4. Varnish clams (*Nuttallia obscurata*): Harvesting only. No movements are allowed.

Varnish clams are an invasive exotic that probably came to British Columbia in the early 1980. Since then, they have proliferated on beaches in the Georgia Basin to the extent that some shellfish culture beaches are overrun with this species. While little is known about diseases particular to the varnish clam, its invasive nature warrants limiting any intentional movements to other areas where it is currently not found until its biology and control are better understood.

5. Mussels (*M. galloprovincialis, M. edulis* and *M. trossulus*): Each zone applies.

Blue and gallo mussels are now cultured in limited amounts in all zones; however there is little information on the geographical distribution of diseases affecting native and non-native mussels. Therefore, all introductions of non-native mussels to any zone will require an I&TL so that a health check can be performed prior to movement. However, on the basis of the oceanographic separation of waters among zones, licensed shellfish growers are permitted under COL to transfer their mussel stocks between aquaculture facilities within the same zone, providing the receiving facilities are licensed for the species to be moved.

6. Japanese Scallops and Hybrids (*Mizuhopectin yessoensis,* and *M. yessoensis* x *P. caurinus*): Each zone applies.

The parasite *Perkinsus qugwadi* is indigenous to BC and does not appear to affect native swimming scallops; however, it is a lethal pathogen of Japanese scallops. Its distribution seems to be patchy within BC such that some areas are known to harbour this organism and others not. To date, several batches of seed produced in a BC hatchery in different years have been examined for pathogens and have been found free of infection. However, to prevent the

inadvertent spread of this pathogen to unaffected areas, scallop stocks placed in the environment at one location must not be moved to the open waters of a second location. Movements between zones require an I&TL so that the health condition of the stock can be verified.

This is likely a disease of concern only to scallop growers and their cultured stock; therefore, precautions against infecting neighbouring aquaculture operations in the same zone must be taken. Licensed scallop growers should exercise caution when moving non-native scallops between sites within the same zone during grow out, and are advised to contact a Department Fish Health specialist for information on the occurrence of this pathogen in their zone.

Native Species

Table 3: Movement of Native Shellfish within Natural Waters

Species	From	To	Licence	Comments
Native Olympia Oysters	Any Zone	Any Zone	I&TL	*see Note A & Note 7*
Clams:				
Littleneck	Same Zone Any Zone	Same Zone Any Other Zone	COL I&TL	*see Note 3, Table 3 and Note A*
Geoduck	Any Zone	Any Zone	I&TL	*see Note A & Note 8*
Butter	Same Zone One Zone	Same Zone Other Zone	COL I&TL	*see Note A*
Cockles	Same Zone Any Zone	Same Zone Any Other Zone	COL I&TL	*see Note A*
Mussels	Same Zone Any Zone	Same Zone Any Other Zone	COL I&TL	*see Note A*
Scallops	Same Zone Any Zone	Same Zone Any Other Zone	COL I&TL	*see Note A*
Spot Prawn	Same Zone Any Zone	Same Zone Any Other Zone	COL I&TL	*see Note A*
Sea Urchins	Same Zone Any Zone	Same Zone Any Other Zone	COL I&TL	*see Note A*
California Cucumber	Same Zone Any Zone	Same Zone Any Other Zone	COL I&TL	*see Note A*

Note A: Although there is a great deal of biological and ecological information for most native species, health and genetic information upon which to base zone delineation for any particular species is not always available. Information on known indigenous parasites and pathogens

indicates that their distributions are not uniform throughout the Province. Population and stock genetics for most native shellfish species are not well understood; however, it is reasonable to assume that exchange of genetic material between conspecific stocks in different areas of the Province is either oceanographically restricted or naturally infrequent, depending on the circumstances. Consequently, a more cautious approach to transfers of native species from an area is required to prevent adverse health and genetic impacts to resident native stocks in the receiving area.

7. Native (Olympia) Oyster (*Ostrea conchaphila*): All movements require an I&TL.

Although once abundant throughout the Pacific Northwest, the native oyster was fished almost to extinction at the turn of the last century. Small remnant populations exist. In 2004, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) listed the native oyster as a species of "Special Concern". Species of special concern are those which are sensitive to habitat change and human activities. Movement of this species *for any purpose* will be reviewed by the ITC on a case-by-case basis.

8. Geoduck Clam (*Panopea generosa*): All movements require an I&TL.

Geoduck aquaculture and enhancement is still under development. There are concerns about disease and genetic impacts, as well as proper management and control of movements. All movement of cultured geoduck within BC will be reviewed under **I&TL** in consultation with DFO Fisheries Management.

Appendix IV: List of Known Shellfish Diseases of Concern

Oysters:
Mikrocytos spp.
Nocardia crassostreae
Bonamia spp.
Haplosporidium spp.
**Marteilia spp.*
**Perkinsus marinus*

Clams:
Nuclear Inclusion X (NIX) of Pacific razor clams
(*Siliqua patula*)Haemocytic neoplasia of soft shell clams (*Mya arenaria*)
**Perkinsus spp.*
**Vibrio tapetis* (cause of brown ring disease)

Mussels:
**Marteilia spp.*

Scallops:
Perkinsus qugwadi (SPX agent)

Crayfish:
Aphanomyces astaci (cause of crayfish plague)
**Psorospermium spp.* (Protozoan Disease)
**Thelohania spp.* (Microsporidian Disease)

Shrimp and prawns:
Sylon (Rhizocephalan Disease) of Shrimp and Prawns
Hematodinium-like Organism of Pandalid Shrimp
Rickettsia-like Infection of Pandalid Shrimp
*Various viral disease of Penaeid Shrimp

Sea Urchins:
**Paramoeba invadens*
*Endoparasitic nematode infection

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*Indicates pathogens that have not been detected in British Columbia

Appendix V: Marine Mammal Accidental Mortality Report

MARINE MAMMAL INCIDENTAL REPORTING FORM

PLEASE REPORT ALL INCIDENTS UPON DISCOVERY (fax 1-604-607-4156)

Company information	**Dates**	**File numbers**
Company: _____	Reported to ORR	RR #: _____
Licence #: _____	Date/time: _____/_____	
Site Name: _____	Discovery date/time: _____ / _____	
Contact name: _____	**Location details**	
Address: _____	Pen #: _____	
Phone: _____	□Fish on site	
Email: _____	□No fish on site _____	
	indicate how long site has been without fish on site	
	Avg size of fish On site: _____	

Incident Details □ Harbour seal □ California sea lion □ Other, please specify: _____

Animal condition Fresh or Adv-mod decomposition	**Incident type** Accidental drowning / entanglement	**System Component** Containment net, predator net, shark guard, other(please specify)

Mitigation Measures

Describe in detail the mitigation measures in place at this facility to prevent drowning and/or entanglement (these can include infrastructure and/or procedures)
Describe in detail the circumstances that led to the failure of these mitigation measures.
Describe in detail what corrective measures are being undertaken to prevent recurrence of this event. (Please include procedural and/or infrastructural modifications.)

Actions taken with Marine Mammal:

□ Collected, stored until DFO advises further □ Collected, discarded with fish mortalities

□ Photograph of tooth dentition pattern with date stamp □ Other_____

□ Released

DFO requests all dolphins & porpoises are collected and stored on ice until arrangements can be made for their collection & necropsy

Comments: _____

_____

AQSF COL 04Feb2013

Appendix VI Importation, Introduction, and Transfer Record Logbook sample

► LICENCE HOLDER Name: _____

► Address:

Report for the licensed aquaculture areas(s) located in DFO Management Area:

Report for Licensed Area(s): **YEAR:**

AQSF#:	Landfile#:	Facility #:	AQSF#:	Landfile#:	Facility #:

Shellfish Aquaculture Importation Introduction and Transfer Record Logbook



►REPORT DETAILS

ACTIVITY DATE (mm/dd/yyyy)	**SPECIES** Common Name	**ACTIVITY CODE: (see below)**	**Number of Containers**	**Est. Avg Container Wt** (lb)	**Container Type** (see below)	**Source of Shellfish** arriving at the Site (licence # or other)	**Destination of Shellfish** being removed from the site (destination site licence #; or market sale processor)

Activity Codes: please use : **(IP)** Importation: **(IN)** Introduction: or **(TS)** Transfer ; **(H)** Harvest for Market sale

Container Type: please use : **(B)** Bag: **(T)** Tote: **(C)** Crate: **(O)** Other

AQSF COL 04Feb2013

Annual Aquaculture Statistical Report

Confidential within the provisions of the *Access to Information and Privacy Act.*

Reporting Year:	PREPOPULATED
Facility Reference #	PREPOPULATED
Licence Holder:	PREPOPULATED
Land file #:	PREPOPULATED

Introduction

Fisheries and Oceans Canada is responsible for the collection and analysis of production statistics for the British Columbia aquaculture industry. This information is collected via the Annual Aquaculture Statistical Reports (AASR). All aquaculture licence holders are required to complete the AASR under Section 61 of the Federal *Fisheries Act*. **The completed forms for each calendar year are due no later than January 25 of the following year.**

Instructions for Completing the AASR

- ▶ This form is for use by shellfish, marine finfish and freshwater/land based aquaculture licence holders.
- ▶ Complete all sections of this form, unless otherwise indicated.
- ▶ This form must be completed and submitted via email to fishstats@dfo-mpo.gc.ca or mailed to the address provided. To request an electronic spreadsheet version of this form, email fishstats@dfo-mpo.gc.ca.
- ▶ Provide weights and measures using metric (e.g. kg, cm) unless other units are indicated.

Section 1 - Harvest For Food Market Sales

Were any fish or shellfish sold for Food Market Sales? ☐ Yes ☐ No

Species	Weight (kg)	Quantity (For Shellfish Only)	Quantity Unit of Measure (For Shellfish Only - Lbs, Dozens or Gallons)	Value ($)	Product Type Round, Live, Fresh Dressed Head On, Fresh Dressed Head Off, Frozen Dressed Head On, Frozen Dressed Head Off, Fresh Fillets, Frozen Fillets, or Other (specify)

Section 2 - "U-Catch-Em" Sales

Note: section 2 only applies to Freshwater/Land Based facilities.

Were there any U-Catch-Em Sales? ☐ Yes ☐ No

Species	Average Length (cm)	Total Number	Total Weight (kg)	Total Value $

Section 3 - Processing Information

Were any fish or shellfish processed? ☐ Yes ☐ No

- ▶ Who processed your fish or shellfish? _____
- ▶ Did you own the fish or shellfish after processing and sell to market (i.e. have your fish self- or custom-processed)?

☐ No ☐ Yes, all of it ☐ Yes, a portion of it. Provide details (e.g., species, quantity, value): _____

Appendix VII: Annual Aquaculture Statistical Report (AASR)

Appendix VII: Continued: Annual Aquaculture Statistical Report (AASR): Page 2

AQSF COL 04Feb2013

Annual Aquaculture Statistical Report (cont'd)

Reporting Year: PREPOPULATED
Facility Reference #: PREPOPULATED

Section 4 - Sales for Restocking or Ongrowing

Note: Include Sales only, not purchases or acquisitions

Were any fish or shellfish sold for Restocking or Ongrowing? ☐ Yes ☐ No

Species	Life Stage (Eggs, Fry/Fingerlings, Juveniles/Smolts, Adults or Seed, Larvae)	Cultch Type (Shellfish Only)	Number Sold in BC (not exported)	Number exported	Total Value ($)

Section 5 - Stocking Information

Was any stock brought on site during the reporting year? ☐ Yes ☐ No

If yes, fill in the stocking information below as it applies to the type of aquaculture facility.

5A) For FRESHWATER/ LANDBASED, including SHELLFISH HATCHERIES list all **species brought on site:**

5B) For SHELLFISH HATCHERIES list all **species spawned in the hatchery**:

5C) For SHELLFISH sites list all **species brought on site** and the **total number**:

#	#	#
#	#	#

5D) For MARINE sites list all **species stocked from another marine site** (a lensing site is considered a marine site):

5E) For MARINE sites list all **species stocked from a freshwater site**:

Species	Number	Avg Weight (grams)	Total Weight (kilograms)

Section 6 - Stock On Hand and Future Plans

► Did this site have any stock on hand on December 31 of the reporting year? ☐ Yes ☐ No
If Yes, list **species:**

► Will this site be operating next reporting year? ☐ YES ☐ NO ☐ FALLOW

► Additional comments on site activity:

Section 7 - Declaration

DECLARATION: I have read all information contained on this report and it is true to the best of my knowledge and belief.

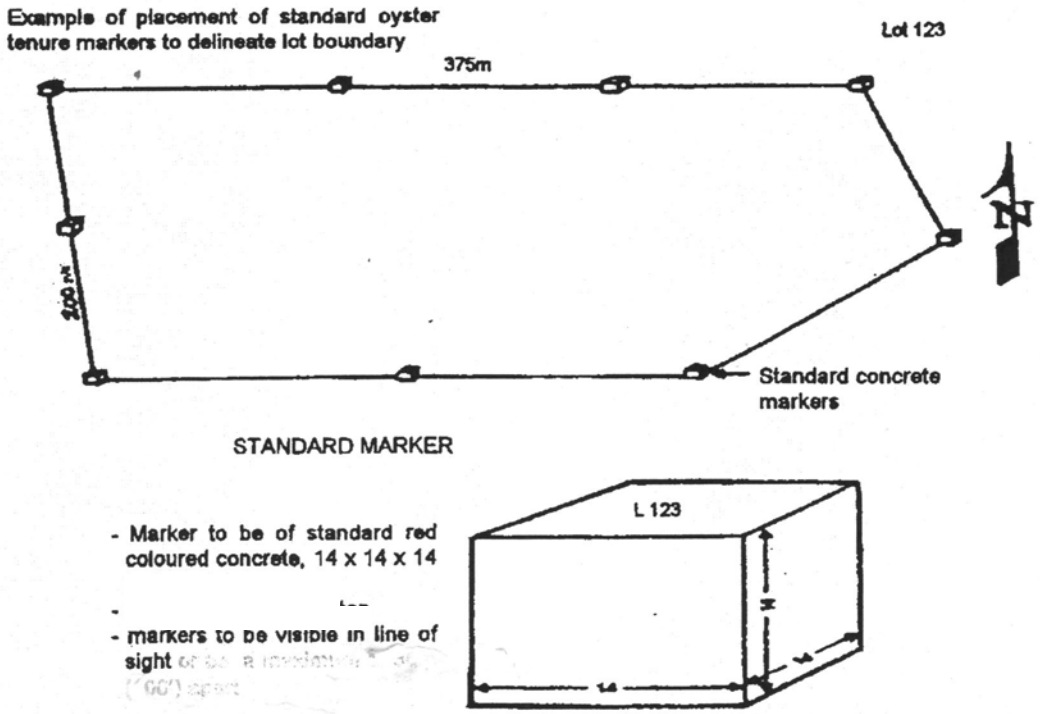
Name (please print)	*Signature*	*Date*
Position in Company	*Email address*	*Phone #*

Appendix VIII: Intertidal Tenure Marking Method Example

Standard marking methods for intertidal shellfish aquaculture tenures and licensed areas.

In intertidal areas of the licensed area (shallower than chart datum), tenure boundaries must be marked with the industry standard red concrete blocks as specified below **or** with alternative methods as approved in a site management plan.

Standard Tenure Markers



Example of Placement of Standard Markers to Delineate Tenure Boundary

Appendix IX: Oyster Spat Collection Notification Form

This form shall be submitted to Fisheries and Oceans Canada offices noted below at least 24 hours prior to setting out spat collection gear for Pacific Oyster in public marine waters in the following locations:

	Location (check applicable)	DFO Subarea	Nearest Point of Land description
☐	Pendrell Sound	15-5	
☐	Hotham Sound	16-12	
☐	Pipestem Inlet	portion of 23-10	
☐	Nesook Bay	portion of 25-5	

Collection will be undertaken by:
Licence Holder Name: _____ Date: _____
Or if applicable:
Harvester Name: _____

Spat Destination:
DFO Aquaculture Licence No.: _____ Land File No.: _____

Location: _____ Pacific Fishery Management Area: _____

Designated Harvest Vessel Name (if applicable): _____

VRN or DOT Registration #: _____ Vessel Master: _____

Scheduled Spat Harvest Commencing Date (dd/mm/yy):	Estimated Arrival Date at Destination(s): (dd/mm/yy):

Offices for Notification	Facsimile	Telephone	Email Address
DFO Radio Room, Vancouver	(604) 607-4156	(604) 607-4186 (604) 607-4187 1-800-465-4336	PACRadioRoomRHQ@dfo-mpo.gc.ca
DFO Aquaculture Management, Nanaimo	(250) 754-0391	(250) 754-0210	Shellfish.Aquaculture@dfo-mpo.gc.ca

Appendix X: Zero Effluent Discharge Facility and Zero Discharge Waste Management Plan

Shellfish licence holders with floating living accommodation within the licensed area are subject to the standard Prohibition Order that prohibits bivalve shellfish harvest within 125 m of the floating living accommodation, unless the harvest is for seed (as defined in Part A)and is authorized by a licence issued under the *Management of Contaminated Fisheries Regulations*.

Provisions under the Canadian Shellfish Sanitation Program (CSSP) allow for a reduction of the bivalve shellfish harvest prohibition zone surrounding floating living accommodations within the shellfish tenure from 125 to 25 metres where a Zero Discharge Waste Management Plan is approved by the Pacific Region Interdepartmental Shellfish Committee and the implementation of the approved waste management plan is a condition of the shellfish aquaculture licence.

The 125 metre prohibited bivalve shellfish harvest zone may be reduced to 25 meters when an approved Zero Discharge Waste Management Plan is implemented as follows:

1. The licence holder shall:

    1.1 Construct the facility in accordance with the approved Zero Discharge Waste Management Plan;

    1.2 Keep a copy of the approved Zero Discharge Waste Management Plan on site at all times and make it available upon the request of a fishery officer, fishery guardian, or inspector;

    1.3 Maintain and operate the facility according to the provisions of the approved Zero Discharge Waste Management Plan;

    1.4 Periodically inspect the components of the facility related to the approved Zero Discharge Waste Management Plan;

    1.5 Maintain inspection and maintenance records related to the approved Zero Discharge Waste Management Plan that are available upon the request of a fishery officer, fishery guardian, or inspector.

Failure to comply with the approved Zero Discharge Waste Management Plan and conditions of licence shall result in a bivalve shellfish harvest prohibition zone of 125 meters surrounding floating living accommodations.

Aquaculture Introduction, Transfer or Harvest Notification Form

Geoduck, Sea Urchin or Sea Cucumber

This form must be submitted to Fisheries and Oceans Canada offices noted below at least 72 hours prior to introduction, transfer or harvest of brood stock or any cultured Geoduck, Sea Urchin or Sea Cucumber.

Check one: **Geoduck** ☐ **Sea Cucumber** ☐ **Sea Urchin** ☐

Check one: **Introduction[1] or Transfer[2]** ☐ **Harvest for Market Sale** ☐

Licence Holder Name: _____ Date: _____
Or if applicable:
Harvester/Vessel Master Name: _____Cell Ph. #_____

DFO Aquaculture Licence No: _____O*r if applicable*: DFO Access Licence No: XBI ___ ____

Aquaculture Facility Number: _____ Landfile # or PID #: _____PFMA: _____

Location: _____

Designated Vessel Name (if applicable): _____VRN or DOT Registration #: _____

Landing Location (public wharf or other): _____

Scheduled Harvest Date(s) (dd/mm/yy)	**Scheduled Introduction or Transfer Date** (dd/mm/yy)	**Product Arrival Date** (dd/mm/yy)	**Destination** (*Specify*: the Buyer, the Processing Plant, the Licensed Area or the Hatchery)

Offices for Notification		
DFO Radio Room, Vancouver	**Email:**	PACRadioRoomRHQ@dfo-mpo.gc.ca
	FAX:	604-607-4156
	Telephone:	1-800-465-4336 or 604-607-4186
DFO Aquaculture Management, Nanaimo	**Email:**	Shellfish.Aquaculture@dfo-mpo.gc.ca
	FAX:	250-754-0391
	Telephone:	250-754-0407

Notes : [1] Introduction: The transport and release of live fish into waters outside their present range, including movement of fish from a hatchery or other fish breeding or holding facility to the marine environment

[2] Transfer is defined as the movement of live fish from one location to another within its present range, including transfers to or from a hatchery or other fish breeding or holding facility

AQSF COL 04Feb2013

BRIEFING

To: Trust Council **For the Meeting of:** June 18-19, 2014

From: Linda Adams, Chief Administrative Officer **Date prepared:** June 4, 2014

SUBJECT: MARCH 2014 DELEGATION – CAMERON THORN – CONCERNS RAISED

DESCRIPTION OF ISSUE: Briefing to Trust Council regarding matters raised in a delegation to the March 2014 meeting by Mr. Cameron Thorn.

BACKGROUND:

At its March 2014 meeting, the Islands Trust Council received a verbal delegation, with written materials that raised a number of concerns related to the Islands Trust's management of Conflict of Interest concerns, as they pertain to members of Advisory Planning Commissions. These written materials are attached to this Briefing as Attachments 3 and 4 and include:

1. A document received from Mr. Thorn, entitled '*Executive Summary; Conflict of Interest and Islands Trust APCs'* - circulated to Trust Council members with the March 2014 meeting agenda package
2. An untitled document circulated by Mr. Thorn to Trust Council at its meeting on March 5, 2014.

In response to Mr. Thorn's delegation, Trust Council passed the following resolution:

> *That the Islands Trust Council request a full briefing from Staff for the June 2014 meeting about issues raised by Cameron Thorn in his delegation.*[1]

This briefing, developed in response to Trust Council's request, includes:

- A brief chronological summary of events that relate to Mr. Thorn's concerns;
- Table 1, which summarizes the main concerns raised in Mr. Thorn's delegation materials, some brief comments regarding each concern, plus actions that have been taken (where applicable), actions that are underway and actions that could be contemplated in future;
- A more detailed chronology (Attachment 1) that includes the actual documents that relate to Mr. Thorn's concerns[2].

Trustees may find it helpful to first refer to a separate briefing on the topic of Advisory Planning Commission (APC) Conflict of Interest, which has been included in Trust Council's June meeting agenda at the request of the Local Planning Committee. Included with that briefing are some draft guidelines on the topics of APC Conflict of Interest and bias. These guidelines are

[1] In a related motion, Trust Council also requested the Local Planning Committee to '*review the Advisory Planning Commission policy, and recommend amendments and a model Advisory Planning Commission bylaw for Trust Council consideration.'*

[2] Some of these documents might not normally be included in a public meeting agenda package, to protect Mr. Thorn's privacy. However, after his delegation to Trust Council, Mr. Thorn sent an email on March 6, 2014 indicating that he had 'no objection to … any of the documents associated with the Administrative Fairness review - being publically released'.

still in development, and are eventually intended for orientation and information of advisory group members.

The summary of events included in this briefing is based on information that is available to staff in Islands Trust files, and primarily focuses on written materials rather than informal accounts of conversations. It provides a summary of the major highlights only, and does not detail every email sent or conversation held. Interactions, communications or conversations between various parties that were not copied to Staff, or are not otherwise in the formal Islands Trust file record are not reflected in this briefing.

DISCUSSION

As this briefing refers to 'Conflict of Interest' it is important to have a consistent understanding of the term, as it is generally understood to apply to local government operations.

As noted in *Managing Conflict of Interest in the Public Sector*[3], a Conflict of Interest arises

> "*when a public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities".*

It is important to remember that there is nothing improper with having a Conflict of Interest; simply having a Conflict of Interest does not imply that a person has done anything improper as a result. However, once a Conflict of Interest has been identified, it is important to manage the situation properly.

This concept is further explained by Dr. Chris MacDonald (Ethics Consultant):

> *'It is crucial to see that a COI is a situation, not an accusation. Being in a COI is not the same as being corrupt, and pointing out that someone is in a COI is not the same as accusing them of bias or lack of integrity. A COI, if not dealt with properly, may leave doubt about the objectivity of a particular decision-making process.'*[4]

Other authors indicate:

> *The presence of a Conflict of Interest is independent of the occurrence of impropriety. Therefore, a conflict of interest can be discovered and voluntarily defused before any corruption occurs. A widely used definition is: "A conflict of interest is a set of circumstances that creates a risk that professional judgment or actions regarding a primary interest will be unduly influenced by a secondary interest. Primary interest refers to the principal goals of the profession or activity, such as the protection of clients, the health of patients, the integrity of research, and the duties of public office. Secondary interest includes not only financial gain but also such motives as the desire for professional advancement and the wish to do favours for family and friends, but conflict of interest rules usually focus on financial relationships because they are relatively more objective, fungible, and quantifiable. The secondary interests are not treated as wrong in themselves, but become objectionable when they are believed to have greater weight than the primary interests. The conflict in a conflict of interest exists whether or not a particular individual is actually influenced by the secondary interest. It exists if the circumstances are reasonably believed (on the basis of past experience and objective evidence) to create a risk that decisions may be unduly influenced by secondary interests.*[5]

[3] Whitton, H. 2005. *Managing Conflict of Interest in the Public Sector – A Toolkit*. Published by the Organisation for Economic Co-operation and Development.
[4] http://chrismacdonald.ca/resources/conflict-of-interest-a-basic-coi-toolkit/
[5] Wikipedia http://en.wikipedia.org/wiki/Conflict_of_interest

In the context of an Advisory Planning Commission, a 'primary interest' of a Commission is to provide advice to a local trust committee that takes into account *'the interest of the community at large'*.[6] A conflict of interest could therefore arise if the interests that are meant to be primary for an APC member (i.e. the interests of the entire community) are at risk due to the presence of a secondary interest (i.e. their personal interest in an aspect of their own property). This is only a concern if the secondary interest is 'personal' and not one that is shared with a broader sector of the community.

Chronological summary of events: (a more detailed chronology and copies of selected documents is included in Attachment 1)

1. The South Pender Island Land Use Bylaw 92 currently permits the construction of 'accessory' uses, buildings and structures in rural residential zones, but they must be 'incidental, secondary and exclusively devoted to a principal use, building or structure on the same lot'. So, for example, the bylaw does not currently permit construction of such buildings before a principal use (such as a single family dwelling) has been constructed on a property.[7] When accessory buildings are permitted, they currently may be up to 4.6 m in height in residential zones.
2. In October 2011, the South Pender Island Local Trust Committee (SPILTC) adopted a revised OCP that included the following statements:

   i) Single family residential use is to be the predominant principal land use on lands designated Rural Residential (RR).
   ii) Other allowed uses on Rural Residential designated lands are to be compatible, both in type and scale, with small lot rural residential living. Land use regulatory bylaws are to make provision for the following uses customarily associated with small lot rural living: short-term rental of a single family dwelling; home occupations; horticulture, including small-scale greenhouse and nursery uses; the keeping of poultry for domestic use; and the sale of produce originating on the lot, including the use of small roadside stands.
   iii) The Local Trust Committee may consider implementing regulations that would permit outbuildings as a permitted principal use prior to construction of a residential dwelling on Rural Residential designated lands." [OCP 3.1.2(a)]
3. Just prior to the OCPs adoption, Mr. Thorn had written in support of one aspect of this OCP direction, indicating he wished to construct 'a small tool shed/workshop of less than 500 ft^2, (46 m^2) on his property at 9882 Castle Road (where there was currently no dwelling), but that he was unable to do so, at that time, because the existing bylaw had not yet been updated to reflect what he understood to be 'the vision of the new OCP'. For these reasons, he urged trustees to '*direct staff to prepare a bylaw to give legal effect to clause 3.1.2.a) iii as quickly as possible*'.
4. In February 2012, the newly-elected SPILTC indicated that it wished to consider further changes to the South Pender LUB, arising from the recent OCP amendments and other initiatives.
5. In April 2012, the SPILTC appointed Mr. Cameron Thorn to its South Pender Advisory Planning Commission (SPAPC).
6. In June 2012, Mr. Thorn contacted Island Planner Andrea Pickard, expressing concern about the timing of amendments to the South Pender LUB. He was advised of the option of applying for a Temporary Use Permit.
7. In July 2012, the Capital Regional District (CRD) placed a Stop Work Order on Mr. Thorn's property at 9882 Castle Road, referring to a foundation that had been poured for a 'garage' with a 12'x32' footprint without a Building Permit. The Stop Work Order notes 'land use issues to be resolved prior to permit being issued'.
8. In August 2012, Mr. Thorn applied for a Temporary Use Permit (TUP) related to the structure he had begun to construct on his property at 9882 Castle Road, ('an outbuilding').

[6] See Section 5 of the Islands Trust Council's generic Terms of Reference for Advisory Planning Commissions.
[7] http://islandstrust.bc.ca/ltc/sp/pdf/spbylbaselub0092.pdf, See definitions, s. 5.2.

9. In September 2012, the SPILTC approved Mr. Thorn's TUP, for a period of three years. In addition to permitting construction of the 'non-residential building' in absence of a residential dwelling, the TUP permitted that building to exceed the permitted height for accessory buildings by 1.1 m.
10. At the same meeting in September 2012, the SPILTC referred a first draft of potential Land Use Bylaw (LUB) amendments to the SPAPC. This first draft included wording that would permit a 'storage' building to be constructed on a residential property in advance of a residence, a possibility suggested by the South Pender OCP. The first draft of LUB amendments indicated such buildings could be generally similar to the accessory buildings that the LUB already allowed for. As written, the first draft of the LUB would not have accommodated Mr. Thorn's building as a 'storage' building, in terms of the floor area or height of the type of building described.
11. In November 2012, the SPAPC met to discuss the referral of the first draft of potential LUB amendments. At the meeting, Mr. Thorn submitted a memorandum about the potential amendments and advocated for different size, height and uses for 'storage' buildings. The SPAPC's minutes were forwarded to the SPILTC, with Mr. Thorn's memorandum appended.
12. Sometime during or shortly after adjournment of the SPILTC meeting of November 13, 2012 where the SPAPC minutes (including Mr. Thorn's memorandum) were received, a question was raised by the planner as to whether Mr. Thorn might have a Conflict of Interest regarding the topic of outbuildings and whether this had been or should have been considered by the SPAPC.[8]
13. The discussion regarding Conflict of Interest was apparently relayed verbally to Mr. Thorn who became concerned that it implied some kind of ethical breach on his behalf.
14. Mr. Thorn communicated his concerns first to the SPILTC secretary, with a copy to the SPLITC Chair Hancock.
15. After some initial attempts by Chair Hancock to clarify, by emails to Mr. Thorn, the reasons why the topic had been raised (and Mr. Thorn's responses indicating why he did not believe this was the case), Staff decided to seek legal advice about whether a Conflict of Interest situation might exist, and if so, how to manage the situation appropriately. In making the legal services request, Staff provided legal counsel with copies of relevant documents, including Mr. Thorn's emails. (see Attachment 1 for details).
16. The legal advice received indicated that a Conflict of Interest situation did exist and that Mr. Thorn should not participate in related deliberations of the SPAPC. The legal advice also indicated that Mr. Thorn should be advised of this matter and suggested some options for doing so.
17. Staff suggested (to SPILTC members) some options for relaying the legal advice, including potential meetings, discussions, letters, etc. The Legislative Services Manager emailed the SPAPC Chair, proposing a meeting to discuss various procedural matters including Conflict of Interest. The SPAPC Chair declined to meet.
18. Eventually, the SPILTC passed a Resolution without Meeting asking Chair Hancock to send a letter to the SPAPC Chair and Mr. Thorn, conveying the legal advice received.
19. The letter authorized by the SPILTC was sent on November 23, 2013 to Mr. Thorn and SPAPC Chair Buffy Patterson, with a copy to other members of the SPAPC.
20. After his receipt of this letter, Mr. Thorn expressed concerns about the process used to identify a Conflict of Interest, and the way that it was communicated. He indicated he required legal advice and enquired as to where an invoice should be sent.
21. Islands Trust CAO responded to Mr. Thorn, first by email and then by letter, to provide further information and recommending that he not incur legal expenses.
22. Mr. Thorn did obtain his own legal advice, which noted a different set of facts and came to different conclusions than Mr. Buholzer had. Mr. Thorn's lawyer (Mr. Kenward) sent a letter to the Islands Trust CAO, who referred it to Islands Trust legal counsel for comment.

[8] Reports regarding these events vary. Please also see footnote # 5 in Attachment 1.

23. Islands Trust legal counsel provided preliminary comment, including reasons why the legal advice from Mr. Kenward might differ. This information was relayed to Mr. Thorn by the CAO. Eventually a more formal written opinion was requested in May 2013 and the Executive Committee waived solicitor-client privilege regarding it in July 2013.
24. In January and February 2013, the Islands Trust Executive Committee also considered Mr. Thorn's concerns more formally (as an Administrative Fairness Complaint)
25. In February 2013, the Chair sent a letter to Mr. Thorn indicating:
    a. That the Executive Committee was concerned about the issues raised because of the implications for volunteers participating in advisory groups.
    b. That the Executive Committee was satisfied that the content of the advice provided to Mr. Thorn about Conflict of Interest was appropriate.
    c. That the SPILTC Chair and Staff had obligations to ensure that the SPILTC's processes were procedurally fair and were making best effort to carry out these obligations.
    d. That the Executive Committee understood that the process used to obtain and communicate with Mr. Thorn about Conflict of Interest could have felt unfair from his perspective in that he had not been offered an opportunity to provide information directly to legal counsel.
    e. That the Islands Trust legal counsel had been asked to re-evaluate the matter on the basis of Mr. Thorn's input.
    f. That procedures for assisting advisory group members (if a Conflict of Interest question was raised) could be improved and that the Executive Committee would support development of a more helpful process.
    g. That the advice conveyed to Mr. Thorn should not be construed as a criticism of his ethics or integrity.
    h. That the Executive Committee regretted that the matter had not been more clearly explained to Mr. Thorn.
    i. That the Executive Committee would make recommendations to Trust Council that policies be changed to enable advisory group members to access legal advice on Conflict of Interest questions and to be included in the discussion when such legal advice was obtained.
    j. That in the interim, internal practices would change, should a similar situation arise in the future and that Executive Committee members, in their roles as LTC chairs would remain alert to such questions for this purpose.
    k. That Mr. Thorn could refer his concerns to the Office of the Ombudsperson, if he was not satisfied with the Executive Committee's handling of the matter.
    l. That the Executive Committee appreciated Mr. Thorn's volunteer work and thanked him for raising concerns that could lead to improvements in internal policies and procedures.
26. Also in February 2013, the Executive Committee added the topic of access to legal advice for APC members (i.e. through amendments to a related Trust Council policy) to its work program. (Until the policy is amended, planning staff have been asked to refer any questions or concerns about APC Conflict of Interest to the CAO, who could then provide liaison between the APC member and legal counsel, if required. Such a process would be similar to that used when trustees need advice, with direct access to legal counsel, when necessary).
27. In February 2013, the SPILTC requested Staff to '*set up a facilitated meeting to include Eli Mina, the South Pender Island Local Trust Committee and others as agreed upon to clarify the roles, improve communication and overall functioning of the Local Trust Committee'.*
28. In April 2013, a workshop with Eli Mina was held as requested by the SPILTC. Attendees included members of the SPILTC, former and current members of the SPAPC (including Mr. Thorn), and Islands Trust staff (R. Kojima, A. Pickard, C Thiel)
29. In May 2013, Mr. Thorn met with Mr. Buholzer to discuss the topic of Conflict of Interest.

30. Following the meeting with Mr. Thorn, Mr. Buholzer considered the further information provided by Mr. Thorn, and later indicated that it did not change his advice regarding Conflict of Interest.
31. In June 2013, the SPILTC considered a staff report regarding potential amendments to its SPAPC bylaw and a draft SPAPC Terms of Reference that followed a model adopted by the Salt Spring Island and Gabriola Local Trust Committees and would provide greater clarity regarding SPAPC Conflict of Interest matters. The SPILTC resolved to '*defer consideration of the draft bylaw and terms of reference pending a future Trust-wide discussion regarding Advisory Planning Commission (APC) Conflict of Interest and remove the item from the Top Priorities List'.*
32. In July 2013, South Pender Trustee Montague proposed that the Local Planning Committee (LPC) consider the topic of APC Conflict of Interest.
33. In August 2013, some members of the LPC agreed to work with Trustee Montague on refining a request for future consideration by the Local Planning Committee.
34. In February 2014, trustees who had agreed to assist Trustee Montague reported to the LPC that Trustee Montague would make a request directly to the Executive Committee (regarding the topic of APC Conflict of Interest).
35. In March 2014, the Islands Trust Council received a delegation from Mr. Thorn, indicating a number of concerns. It passed a resolution asking for a briefing on the topic and requested that the LPC '*review the Advisory Planning Commission policy, and recommend amendments and a model Advisory Planning Commission bylaw for Trust Council consideration'.*
36. In May 2014, the LPC considered an initial briefing and draft guidelines on the topic of APC Conflict of Interest and bias. It asked that these materials be forwarded to Trust Council. It also agreed to consider, in September, how it would add the topic of Advisory Planning Commission Conflict of Interest to its work program.

CONCERNS RAISED IN THORN DELEGATION

Table 1 summarizes the primary concerns raised by Mr. Thorn, some brief comments regarding those concerns, plus actions that have been taken to address them, are underway or could be contemplated in future.

CONCLUSIONS AND RECOMMENDATIONS

The events described in this briefing have raised questions about the topic of Conflict of Interest and bias regarding Advisory Planning Commission members, the level of orientation provided to them on these topics and the process for accessing and conveying legal advice for APC members if necessary. Some initial Staff conclusions and recommendations follow:

Should APC members be asked to declare personal Conflicts of Interest and remove themselves from discussion of related topics?

This topic is more fully examined in a separate briefing on Trust Council's June 2014 agenda. While not all APC bylaws (or island-specific terms of reference) provide detailed guidance on the topic, Staff recommend that the disclosure of Conflicts of Interest (and recusal from related discussions and recommendations) be confirmed as the preferred practice for all Advisory Planning Commission members, as suggested by *Roberts Rules of Order* and consistent with recognized standards regarding Conflict of Interest within the public sector[9]. While BC legislation is silent on the topic, it leaves the details of APC conduct to be established by individual APC bylaws, most of which (in the Islands Trust Area) indicate that principles of procedural fairness should be followed. As discussed in a separate briefing, such a practice would not be contrary to case law.

Declaration and recusal when a Conflict of Interest arises is a standard practice in many types of meetings, as well as in guidelines for many types of advisory bodies and professional organizations that follow principles of procedural fairness. It is a standard practice for members

[9] For example: Whitton, H. 2005. *Managing Conflict of Interest in the Public Sector – A Toolkit.* Published by the Organisation for Economic Co-operation and Development.

of BC Advisory Planning Commissions, serving communities large and small, whether or not it is specifically identified in an APC bylaw.

This recommendation applies to standing advisory groups that have been established as a formal APC (or Advisory Design Panel) under s. 898 of the *Local Government Act*, and that are therefore a formal part of the LTC's decision-making process, where procedural fairness is expected. As a formal part of the LTC's decision making process, APC's must also:

- comply with BC legislation (s. 898(9) of the *Local Government Act*), which requires that APCs provide an opportunity for applicants to attend meetings and be heard;
- act in accordance with Trust Council's APC Terms of Reference and Operating Guidelines, which:
    - require that *'all APC recommendations on referrals be recorded as resolutions in approved minutes made available to the public'.*
    - provide a number of procedural guidelines intended to ensure fair processes.
    - indicate that an APC *'should take into account the interests of the community at large when making recommendations'*.

In Staff's experience, the frequency with which true *personal* Conflicts of Interest occur (as opposed to interests that are shared with a broader sector of the community) is relatively low and the practice (declaration and recusal in Conflict of Interest situations) does not affect the normal operations of an APC, even in a very small community. Examples exist of very small communities (i.e. where APCs serve populations between 119 and 6939 in the Capital Regional District, the Comox Valley Regional District and the Strathcona Regional District) as well as similar examples in the San Juan Islands.

In Staff's experience, where an APC member has a true personal Conflict of Interest, this is likely to create community concern and complaints about fair process if they continue to participate in related APC meetings. An APC member who has recused themselves in an APC meeting retains the right to provide input to the LTC as an individual, in written or oral form, so there is no net loss in terms of potential input to the LTC.

This recommendation would not apply to all *ad hoc* groups, task forces, focus groups, etc. that may have different purposes, may be formed to hear from a particular sector of the community (i.e. a group that is NOT expected to '*take into account the interests of the community at large*'), may act in an informal way and may never actually vote on specific recommendations. However, even with such groups, expectations about the management of Conflict of Interest should be clearly laid out in Terms of Reference, so there is an understanding of how the group is intended to operate.

Could or should an LTC amend an APC bylaw to permit participation of members who have a Conflict of Interest in some circumstances?

Individual LTCs can adopt APC bylaws that indicate the conduct expected of APC members. While the participation of an APC member who has a Conflict of Interest may present concerns about procedural fairness, it is not illegal, or likely to cause a LTC bylaw to be quashed. This matter is further described in a separate briefing on Trust Council's June 2014 agenda.

While it is a standard practice for members of local government APCs to recuse themselves if they have a Conflict of Interest, Islands Trust legal counsel (Mr. Buholzer) has been quoted in earlier correspondence (from Trustee Montague and Mr. Thorn) as having suggested that the practice could be relaxed in regards to APCs.

Staff has discussed this with Mr. Buholzer to understand the matter further. He has indicated that he was responding to a hypothetical situation, suggested by Trustee Montague (but inconsistent with Trust Council's Terms of Reference for APCs), where APCs are not asked to provide recommendations by *resolution*, or where APCs are not asked to make

recommendations on specific land use applications. He also suggested that, in regards to *non-pecuniary* Conflicts of Interest, an APC bylaw, or other APC guidelines could be crafted to provide more detailed guidelines about the circumstances when an APC member should declare a non-pecuniary Conflict of Interest and recuse themselves. For example, an LTC may wish to more clearly define 'neighbouring property' or 'family member', or ensure that an APC member did not feel the need to recuse themselves because of their membership in another community group. This advice has been incorporated into the draft Guidelines for APC members, which could be supplemented by legal advice on a case-by-case basis. Development of such an APC bylaw would require careful wording with legal advice. If such language was to be considered for an APC bylaw, Staff also recommends that the Ombudsperson's Office be consulted, to get advice about procedural fairness in such a situation.

Should an APC member with a bias (closed mind) be asked to remove themselves from the discussion of related topics?

While it is important for an APC to reflect a broad variety of community opinion, the participation of someone who is truly biased[10] does not support procedural fairness principles, which indicate decisions should be made on the basis of evidence provided, rather than on pre-determined bias. An example might be an APC member who had made previous commitments or public promises to vote against something, no matter what facts were presented by an applicant or learned at the APC meeting. This is not to say that an APC member with strong opinions or perspectives about a topic should not participate in the development of recommendations, provided they honestly feel that they might change their mind, on the basis of a persuasive argument (i.e. like trustees, APC members are not required to have an empty mind, just an open mind). Nevertheless, so all participants feel fairly treated, APC members should be cautioned against making definitive statements about their position, in advance of a meeting where information is to be received and deliberations about a recommendation are expected.

Are APC members serving LTCs sufficiently oriented regarding Conflicts of Interest and bias?

At present, new APC members receive an orientation package that includes a variety of documents such as relevant bylaws, APC Terms of Reference and APC Operating Procedures. With the exception of the Salt Spring Island APC Terms of Reference, the materials provided do not specifically address Conflict of Interest, other than indicating that the community interest must be considered and (in some cases) that the Chair is responsible for procedural fairness and (in some cases) that the Chair may 'rule' on Conflict of Interest questions, if asked. Specific information about the how to identify and manage Conflict of Interest situations is not consistently provided to APC members. APC Chairs are not provided with detailed information about the principles of procedural fairness. While LTCs may consider an APC applicant's experience working in similar situations, APC Chairs and members may or may not have specific experience with Roberts Rules of Order.

While difficulties with the management of APC Conflict of Interest and bias have rarely arisen, orientation for APC members on these topics should be improved. It also seems apparent that orientation and information on the topic of APC Conflict of Interest has been inconsistent for trustees and planning staff, leading to confusion or inconsistent understanding. APC members may seek advice from trustees and planning staff who may then attempt to provide it, even if they have had little or no training on the topic.

To improve the current situation, draft guidelines about Conflict of Interest, intended for members of all advisory groups are in development. A discussion draft has been received by the Local Planning Committee and referred to Trust Council for comment (see Trust Council

[10] Bias: '*an inclination of temperament or outlook to present or hold a partial perspective and a refusal to even consider the possible merits of alternative points of view. People may be biased toward or against an individual, a race, a religion, a social class, or a political party. Biased means one-sided, lacking a neutral viewpoint, not having an open mind'* – Wikipedia
'Inclination or prejudice for or against one person or group, especially in a way considered to be unfair' - Oxford Dictionary

agenda Section 2). Once finalized (comments from planning staff and Islands Trust legal counsel will also be sought), these Guidelines will provide better orientation and guidance about how APC members can handle Conflicts of Interest and bias.

As best practices for the management of Conflicts of Interest and bias suggest that these topics should be discussed openly[11], draft orientation materials stress that the simple identification of a Conflict of Interest or bias is not an indication of an ethical breach, but that once identified, the situation should be carefully managed to preserve fair processes and the appearance of fair processes. Had such orientation materials been available, they may have helped to prevent the concerns that Mr. Thorn has raised.

In addition to draft Guidelines for APC members, Trust Council has also asked its Local Planning Committee to recommend amendments to Trust Council's two policies regarding APCs and to develop a model APC bylaw. Assuming Trust Council's policies are amended to more clearly address Conflict of Interest and bias, this would also improve orientation and information for APC members.

The decision to amend and/or adopt a new APC bylaw rests with individual LTCs, who could base amendments on a model approved by Trust Council or act independently. If an LTC is considering an APC bylaw that does not require the declaration of a pecuniary Conflict of Interest, Staff recommends that the Office of the Ombudsperson be consulted for advice.

What process should be followed if legal advice is needed to assist an APC member in identifying or discussing ways to manage a Conflict of Interest?
When Mr. Thorn originally raised concerns about a question of Conflict of Interest that had been raised relative to his participation in the SPAPC, Staff sought legal advice in a manner consistent with Trust Council's policies for accessing, managing and obtaining legal advice. These policies do not currently anticipate that an advisory group member would be given direct access to Islands Trust legal advisors, or included in the request for legal services. They also do not provide for legal advice to be distributed to anyone other than trustees or staff, unless the Executive Committee has waived privilege. Instead, existing policies suggest that staff should obtain legal advice and then consider it when providing advice. This is the procedure that was followed by staff at the time.

Mr. Thorn has indicated that he believes the legal advice conveyed to him about Conflict of Interest was not 'advice', but was in fact a 'decision'. He suggests that the process to obtain it should have therefore followed the principles of procedural fairness in decision-making, such as those that local trust committees follow when making statutory decisions about land use applications (See Policy 7.1.i – Administrative Fairness Policies). Mr. Thorn notes that Section 3 of this policy (Fair Decision-Making) suggests that procedural fairness principles must be applied to all 'actions' of Islands Trust bodies as well as to 'decisions'. In summary, the policy indicates that the principles of procedural fairness include:

- timely and adequate notice to all interested parties of the decision-making process and opportunities to participate in it
- adherence to any statutory requirements for notice about the decision-making process
- that all interested parties be given an opportunity to review the nature of the action or decision and to examine the information being considered
- that all interested parties be given an opportunity to provide written or verbal information in support of their position
- that decision-makers must be free of Conflicts of Interest and bias
- that decisions must be based on a review of relevant information, excluding irrelevant considerations

[11] For example: Whitton, H. 2005 (noted above) and Mina, E. 2009. *101 Boardroom Problems and How to Solve Them*. Published by American Management Association (see "Problem 17")

- that decisions and actions must be made promptly and communicated to all interested parties
- that interested parties should be provided with reasons for decisions made
- that members of the public should not be excluded from decision-making except as permitted under the *Community Charter*.

In response to Mr. Thorn's initial concerns about the way that legal advice was obtained and relayed to him (and specifically, that he did not have an opportunity to provide input, when the legal advice was initially obtained), the Executive Committee endorsed a change in internal practices (regarding access to legal advice for APC members) in February 2013. This change in practice embraces those aspects of the above procedural fairness principles that are relevant, while recognizing that not all would be appropriate, because they were designed for land use decision-making processes. This change means that members of advisory bodies would be treated much the same way that trustees and staff are, when questions arise regarding the potential for personal Conflicts of Interest and bias. In other words, they would be treated as partners in the preservation of procedural fairness, able to access legal counsel if necessary, and to provide input about their situation before receiving related advice. Legal advice could then be shared with the APC Chair and local trust committee members, so that all would be aware of how the situation should be managed to preserve a fair process. While this change in procedure has been tentatively approved (and would be used if the situation arises again), it will require amendment to Trust Council policy to provide a formal framework that considers ownership of such advice, solicitor-client privilege, privacy and cost containment.

This way of managing a Conflict of Interest situation would recognize that these topics are often sensitive, personal, and can be misunderstood, despite assurances that the existence of a Conflict of Interest is not, in itself, an ethical breach. This process could also defuse the potential for an advisory group member to be caught off guard or to feel 'accused' in regards to a Conflict of Interest or bias situation.

Staff has also reviewed these process matters with legal counsel and with staff from the Office of the Ombudsperson to determine if the 'action' of seeking or giving legal advice about Conflict of Interest (for APC members, trustees, or staff) should ever be considered a 'decision' that must comply with a full procedural fairness process. Legal counsel and the Ombudsperson's staff both confirm this is not the case and recommend amendment of any policy suggesting otherwise.

While Policy 7.1.i indicates that procedural fairness principles should apply to 'decisions and actions', it has generally been interpreted by Staff to apply to statutory decisions of local trust committees, such as making zoning changes or issuing permits. Islands Trust bodies make many other types of decisions without going through all the steps required for procedural fairness. The application of these principles to 'all' decisions and actions would be impractical and unnecessary (e.g. decisions to adopt minutes, appoint advisory committee members, acquire legal advice, change work program priorities, enforce bylaws, write advocacy letters, amend strategic plans).

Staff have recommended that Policy 7.1.i be amended to clarify its intent and the Executive Committee has placed the topic on its work program.

Would the legal advice about Conflict of Interest have been different, if Mr. Thorn had been given an opportunity to provide input to legal counsel when advice was originally sought (or if Staff had provided additional information at that time)?
It is important to remember that to identify a Conflict of Interest situation, one has only to determine if there is a 'risk' that a person's personal interests could influence their actions in an official capacity. The identification of a Conflict of Interest situation does not try to determine how a person may balance their conflicting interests when acting in an official capacity. For

example, it would be possible to have a Conflict of Interest and to vote against your own interests; this does not change the fact that you have a Conflict of Interest.

In this situation, legal counsel advised that identification of a Conflict of Interest situation was relatively straight forward, once all the facts were assessed. Since the initial legal advice was obtained, Mr. Thorn has supplied additional information (which Staff has forwarded for legal review) and has met with Mr. Buholzer to discuss the matter directly and to supplement the information in his original emails that Mr. Buholzer reviewed. Much of this additional information has focused on future possibilities that Mr. Thorn has for his building, if the SP LUB is not amended to accommodate it. Mr. Buholzer has advised that these 'future possibilities' do not "diminish the fact that he presently has a special interest in proposed Bylaw No. 111 as regards this type of building, that he does not have in common with the owners of vacant residential properties in the local trust area".

If the existence of 'future possibilities' were considered in the analysis of Conflict of Interest situations, most if not all Conflict of Interest situations would evaporate. In most situations, a person may have future possibilities, such as disposing of property or financial interests, resigning from a position, etc. The analysis of Conflict of Interest focuses on the situation that exists at the time the analysis is made.

Despite the foregoing, Staff have recommended (and the Executive Committee has endorsed a change in practice) including APC members if legal advice is sought that is personal to them. This seems to be a more appropriate and inclusive approach to dealing with volunteers who are working in a formal capacity on Islands Trust initiatives. To formalize this approach will require the amendment of Trust Council's existing policies regarding access and management of legal advice.

Should the Islands Trust pay for a member of an APC to obtain their own legal advice regarding Conflicts of Interest or bias as it pertains to their role as an APC member?
Staff does not advise this practice, for a number of reasons. There are no legal risks for an individual APC member in this matter, although there could be some 'non-legal' risks to a local trust committee's decision-making process if procedural fairness principles are not followed (for example, there is a risk that a complaint to the Ombudsperson could be made if an APC member with a pecuniary Conflict of Interest participated in influencing the LTC's decision-making process).

Further, if an APC member retains their own legal counsel, they may not choose legal counsel with knowledge in the specific area of law. The facts provided to external legal counsel, the questions asked and the advice provided would remain subject to solicitor-client privilege, potentially leading to less understanding of the situation, rather than more.

Legal counsel must follow strict procedures when providing advice and receiving payment for it, ensuring that they themselves do not have a Conflict of Interest and are not providing advice to clients with different interests. Where advice is provided to two parties, agreements must be in place regarding the practice, determining who has solicitor-client privilege, etc. For these and other reasons, the Islands Trust's contract with its legal advisors is exclusive, and provides for specific situations and pre-agreements where advice may be sought or purchased from other legal counsel.

Finally, the Islands Trust has limited resources for legal advice and should not be essentially writing a 'blank cheque' for a service unless it has input into the terms of reference and can ensure the advice is likely to be useful and relevant to its operations.

Should the Islands Trust invest further staff time and resources in this issue?
While this topic originated in the consideration of what seems to be a relatively minor issue (the size, height and use of accessory/storage/outbuildings on South Pender Island and whether an

APC member had a conflict of interest regarding the topic), it has consumed a considerable amount of staff and other resources (see page 13), both before and after Trust Council requested further work on the topic. The effort expended seems out of proportion to the frequency with which this issue occurs in the Islands Trust Area[12]. Concerns related to this topic may well be rooted in local perceptions and relationships specific to South Pender Island, unlikely to be resolved by further investment of senior Islands Trust staff time or resources.

The Executive Committee and Staff have reviewed the matters raised by Mr. Thorn in depth and recognized that some areas for improvement in internal policies and processes were warranted. Legal and ombudsperson advice has been sought and resources have been spent to improve working relationships. Official correspondence from the Islands Trust to Mr. Thorn has provided explanations and information and has expressed regret, acknowledged areas for improvement and confirmed that the advice provided did not suggest any impropriety. Mr. Thorn has had an opportunity to provide input directly to Islands Trust legal counsel, who advises that the additional information received did not change his analysis regarding a Conflict of Interest – he advises there was a 'risk' that Mr. Thorn's well-documented personal interests could influence the advice he provided to the APC, irrespective of other options available to him. The legal advice is consistent with Staff's understanding of Conflict of Interest advice received from many different sources. Staff has also informally reviewed the matter (in a generic way, without identifying individuals or locations) with colleagues in the legal, planning and local government administration professions who indicate agreement with the conclusions reached.

Procedures for providing legal advice to APC members have been changed (whereby they can seek advice from the CAO and access legal counsel directly, if necessary, to provide information about their circumstances) and is working well, although it is noted that the issue rarely arises. Amendments to three related Islands Trust Council policies are on the Executive Committee's work program, although they have not been given the highest priority, given other issues. Further orientation materials for APC members are in development and the Local Planning Committee has been asked to recommend model language for APC bylaws. Where a local trust committee believes this topic should be addressed in a more urgent manner, it has the option of giving it a higher priority on its work program.

Mr. Thorn has been advised that, if he is not satisfied with the Islands Trust's handling of his concerns, he could approach the Office of the Ombudsperson. This office is established specifically to consider concerns about procedural fairness matters from an independent perspective.

Staff do not recommend further time or resources be spent in responding to the issues raised, other than tasks already assigned to the Local Planning Committee, tasks already underway through the Executive Committee or work that local trust committees initiate through their work programs.

FURTHER CONSIDERATIONS

At the Trust Council meeting in March 2014, Trustee Decario indicated that she recalled reading a legal opinion from Mr. Buholzer that differed from that given in the Thorn case. After further research to locate this opinion, Trustee Decario confirmed that she had, in fact, seen an excerpt from *BC Planning Law and Practice*, a standard reference manual written by Mr. Buholzer. The relevant excerpt is included in Attachment 2 to this briefing; it provides advice consistent with that given by Mr. Buholzer in the Thorn case.

[12] Staff is not aware of a similar issue having arisen before. Colleagues in other local governments have not indicated similar experiences with APC members.

RESOURCES USED:
The following table provides an estimate of the resources used to date in responding to the concerns raised by Mr. Thorn, from November 26, 2012 to June 3, 2014[13]:

Item	Estimated costs
Professional fees (legal and meeting facilitation)	$10300
CAO time	9500
Director of Local Planning Services time	2800
Regional Planning Manager time	2400
Planner time	900
Legislative Services Manager time	850
Administrative staff time	100
ESTIMATED TOTAL RESOURCES SPENT	$26,850

ATTACHMENT(S):
1. Detailed Chronology and Selected Documents Regarding Concerns Raised in Mr. Thorn's Delegation Materials (July 2, 2011 to June 25, 2013 only).
2. Excerpt from *BC Planning Law and Practice* by W. Buholzer, re APC Conflict of Interest and Bias.
3. "Executive Summary; Conflict of Interest and Islands Trust APCs" – prepared by Cameron Thorn (originally included in Trust Council's March 2013 agenda package)
4. Untitled document received from Cameron Thorn at the Islands Trust Council meeting on March 5, 2014.

AVAILABLE OPTIONS:
1. That the Islands Trust Council take no further action on this matter until the Local Planning Committee makes the recommendations requested previously.
2. That the Chair be asked to write to Mr. Thorn thanking him for raising his concerns, reiterating that no criticism of his ethics or integrity should be implied, identifying actions taken and planned and referring him to the Office of the Ombudsperson if he remains unsatisfied with the Islands Trust's handling of his concerns.
3. Other options, as determined by Trust Council.

FOLLOW-UP: To be determined by Trust Council.

Prepared By: Linda Adams, MCIP, RPP
Chief Administrative Officer

Reviewed By/Date: David Marlor, MCIP, RPP
Director – Local Planning Services

Robert Kojima
Regional Planning Manager, Southern Planning Team

Carmen Thiel – Legislative Services Manager
Executive Committee – June 3, 2014



_____
Chief Administrative Officer

[13] In regards to the time expenditures, these are estimates only and only relate to responding to concerns raised by Mr. Thorn after initial legal advice was received and conveyed.

Table 1
Comments and Actions Regarding
Concerns Raised in Mr. Thorn's Delegation Materials (as received March 4, 2014)

Concern Raised in Thorn Delegation materials	Comments	Action Taken	Action Planned	Examples of Other Potential Actions
1. That he was 'accused' of being in a Conflict of Interest and received a letter of sanction.	Several references regarding Conflict of Interest stress the importance of understanding that a Conflict of Interest is not an accusation[14], but a common situation that cannot be avoided. Once a Conflict of Interest (for those involved in a formal way in a decision-making process) has been identified, proper management is important to preserve a fair process. The legal opinion conveyed to Mr. Thorn indicated that he did have a Conflict of Interest and that he should manage it by not participating in related discussions at APC meetings. It is not written as an accusation or judgment, although Mr. Thorn clearly has considered it to be one. Given the concerns Mr. Thorn had previously expressed, the letter to him could have been more clearly drafted and could have confirmed that the identification of a Conflict of Interest was separate from any suggestion of impropriety on his part. Alternatively, the information could have been conveyed in a less formal manner, without copies to other parties at the same time.	Written clarification to Mr. Thorn that a Conflict of Interest is a normal situation, not an accusation; that advice conveyed to him was not a criticism of his integrity or ethics (1 letter from CAO, 1 letter from Chair). Executive Committee review of Mr. Thorn's concerns. Chair correspondence expressing concern about management of the topic and regret if the matter was not clearly explained in initial correspondence on the topic. More detailed information has been provided to Mr. Thorn, with links to reference materials that discuss the topic of Conflict of Interest and clarify that the identification of a Conflict of Interest is not an accusation or suggestion of impropriety.	Guidelines for APC members are in development, providing more information about the nature of Conflicts of Interest, and how to identify and manage them. These guidelines clarify that the identification of a Conflict of Interest is not the same as an accusation of impropriety.	More in-depth orientation for APC members on Conflict of Interest matters.
2. That he did not have an opportunity to provide input when legal advice was sought in regards to a potential Conflict of Interest	As this situation had not occurred previously, the Islands Trust has not developed policies to guide the way that legal advice should be obtained	Chair correspondence to Mr. Thorn indicates an understanding of his concerns (about not having an opportunity to be heard), and that	Guidelines for APC members are in development, indicating who to contact if questions about Conflict of Interest or bias arise, and how to	

[14] The Concise Oxford Dictionary defines 'accuse': *'to charge a person with a fault or crime'*

Concern Raised in Thorn Delegation materials	Comments	Action Taken	Action Planned	Examples of Other Potential Actions
matter that concerned him and that the Islands Trust should give APC members an opportunity to be heard when seeking legal advice about APC member conflict of interest.	in regards to Conflict of Interest on the part of an APC member. Staff therefore followed Trust Council's general policies for accessing, managing and obtaining legal advice, which do not provide for an APC member to provide direct input into the development of legal advice. While Staff did convey Mr. Thorn's written input to Mr. Buholzer and this was considered when advice was initially sought[15], this was not clearly communicated to Mr. Thorn at the time, so he would not have been aware of the information Mr. Buholzer considered. Unlike the process followed when a trustee has a question about Conflict of Interest or bias matters, Mr. Thorn was not provided an opportunity to provide verbal information to Mr. Buholzer, until later in the process. Because he is neither a trustee nor a staff member, Trust Council policies indicate that Mr. Thorn was also not able to see copies of written legal advice, unless solicitor-client privilege was first waived by the Executive Committee.	internal processes had changed. After the initial legal opinion was conveyed to Mr. Thorn, Islands Trust legal counsel was asked to consider additional information Mr. Thorn provided and Mr. Thorn was advised of this. He was also provided an opportunity to meet directly with Islands Trust legal counsel to discuss his concerns, and to provide additional information for consideration. Mr. Thorn has been provided with copies of legal advice which confirmed that his input was considered. In response to Mr. Thorn's concerns, the Executive Committee considered the matter as a formal complaint. The Chair wrote to Mr. Thorn, expressing regret for the process that was initially used to obtain and communicate about legal advice in this matter. The letter further advised him of plans to use a different process, if future questions arose regarding Conflict of Interest in regards to APC members. Internal practices were changed in February 2013, so that APC members with questions about Conflict of Interest are now referred to the CAO and can provide input to Islands Trust legal counsel directly, if necessary, before they receive advice about Conflict of Interest and bias matters. Legal advice, if any, would be provided directly to them, with copies to the APC Chair and LTC members. Draft Guidelines for APC members have been developed that explain how	access legal advice. Amendment to TC Policy 6.9.ii (Legal Services Access – and possibly other policies that relate to legal advice) to formally address access to legal advice for advisory group members (this work is currently Priority #2 on the EC work program for the Legislative Services Manager). Development of specific procedures for obtaining and distributing legal advice regarding APC members and Conflict of Interest. Note: Staff is not currently aware of any other local government in BC that provides access to legal counsel for APC members, or has a process for obtaining legal advice, so no models have been found for policy amendments. However, the San Juan County code indicates that internal legal counsel may provide advice to members of advisory groups about procedures to follow when declaring a Conflict of Interest. Procedures may be in place that could be useful. Further research may find models in BC, particularly for local governments that have in-house legal staff. An appropriate process would be important, to ensure that advice is circulated to those who need it, and that privacy matters are considered, as well as factors related to cost-containment.	

[15] Before a legal opinion was sought on this topic, Chair Hancock had an email exchange with Mr. Thorn (from November 13, 14, 15 and 16), in which Mr. Thorn provided his perspectives. As noted in his letter of May 17, 2013, Mr. Buholzer considered Mr. Thorn's perspectives, as it was relayed in that email exchange. In addition, Islands Trust legal counsel considered the information that Mr. Thorn included in his application for a TUP and Mr. Thorn's memorandum to the SPAPC on the topic.

Concern Raised in Thorn Delegation materials	Comments	Action Taken	Action Planned	Examples of Other Potential Actions
		to access legal advice, if necessary, and how such advice would be distributed.		
3. That Islands Trust staff did not request Mr. Buholzer to consider all the facts, including other options that Mr. Thorn had regarding his building, when considering whether Mr. Thorn had a conflict of interest. That the legal advice would have been different if these facts had been considered.	The intitial request for legal advice sent to Mr. Buholzer requested that he consider several options that Mr. Thorn had in regards to his building. Also included in the original materials sent to Mr. Buholzer were Mr. Thorn's emails on the matter, (two emails dated Nov 14-16/2012) in which Mr. Thorn explained his perspectives on the matter and his understanding of other options he had available to him. When Mr. Thorn provided additional information, Staff asked Mr. Buholzer to further assess it. Relatively early in the process, Mr. Buholzer advised that, the existence of other possibilities for Mr. Thorn's building did not alter the analysis regarding a Conflict of Interest. Eventually, Staff asked for a legal analysis of all the information Mr. Thorn provided. This led to a formal written opinion in May 2013, that was later released to Mr. Thorn. It did not change Mr. Buholzer's analysis regarding a Conflict of Interest. Mr. Buholzer advised that 'none of these possibilities diminish the fact that (Mr. Thorn) presently has a special interest in proposed Bylaw No.111'.	Mr. Thorn has been provided with copies of Islands Trust legal advice which indicate all the items that Mr. Buholzer was asked to consider. Mr. Thorn was provided with an opportunity to discuss the matter directly with Mr. Buholzer and to provide further information about options or ask for further explanation about how they might impact an analysis of Conflict of Interest. The Executive Committee has considered Mr. Thorn's complaints and responded to them. Mr. Thorn has been advised that he could address his concerns to the Office of the Ombudsperson, if he is not satisfied with the Islands Trust's handling of his concerns.		
4. That in developing his advice about Conflict of Interest, Mr. Buholzer did not consider the various future possibilities that Mr. Thorn had regarding his building.	See notes above. Following Mr. Thorn's indication that Mr. Buholzer had not properly considered the matter, Staff sought a both an informal and a formal follow-	Mr. Buholzer's original legal advice and formal follow-up legal advice were released by the Executive Committee and provided to Mr. Thorn. These materials detail the facts considered by Mr. Buholzer and reasons why	n/a	

Concern Raised in Thorn Delegation materials	Comments	Action Taken	Action Planned	Examples of Other Potential Actions
	up legal opinion from Mr. Buholzer. Mr. Buholzer's correspondence of May 17, 2013 indicates that he had taken various options into account, as proposed by Mr. Thorn and as requested by Staff. This letter also discusses why consideration of these various options (or others that might be available to Mr. Thorn) did not change the analyis of a conflict of interest situation. Where Mr. Thorn has indicated his options for his building, there may be some misunderstanding on his part regarding these options, given that it is overheight in relation to the current bylaw. If the SPILTC LUB is not amended to recognize buildings such as his, he would be required to seek an extension to the TUP, seek a variance on the height, change the use of the building (from what he had indicated were his original intentions), or remove it. It would not, as Mr. Kenward suggests, become legally non-conforming. Mr. Buholzer indicates that the fact that Mr. Thorn would need to take some other action to maintain the legality of the building (if the bylaw doesn't accommodate it) gives him a personal interest in the outcome of the LUB amendments.	various future possibilities do not change the analysis regarding a Conflict of Interest.		
5. That recent Islands Trust legal advice says that the Advisory Planning Commission members are subject to the same Conflict of Interest rules as trustees".	Mr. Buholzer's letter of Nov 16, 2012 says: 'Section 10 of the Islands Trust Regulation does not make statutory Conflict of Interest regulations applicable to members of advisory planning commissions; it applies only to members of local trust committees. The situation is identical in municipalities and regional districts'. Mr. Buholzer has stated, however,	Until further orientation materials are available, LTC Chairs and planning staff have been asked to forward any questions about Conflict of Interest to the CAO, who can provide liaison to Islands Trust legal counsel, if required.	Draft Guidelines for APC members are in development to clarify that statutory Conflict of Interest regulations are not applicable to members of APCs. The draft guidelines would also provide further information about the principles of procedural fairness and recommended conduct for APC members.	

Concern Raised in Thorn Delegation materials	Comments	Action Taken	Action Planned	Examples of Other Potential Actions
	that as many APC bylaws in the Trust Area indicate that APC meetings are to run according to the principles of procedural fairness, APC members with Conflicts of Interest should recuse themselves, in such situations. The recusal of participants with a special interest in a matter is a standard part of procedural fairness.			
6. That most if not all gulf island advisory bodies have received no training or information regarding Conflict of Interest, leaving them exposed to Conflict of Interest rulings against them'. That APC members should not be held to a standard to which they have no prior knowledge and that clear guidelines about APC Conflict of Interest should be developed.	See previous comments. This comment suggests that having a Conflict of Interest is a form of impropriety and that advisory group members are at some legal risk of 'rulings'. This is not the case and no 'rulings' have been made or will be made. However, members of advisory groups will continue to have occasional Conflicts of Interest and could benefit from better orientation and advice about how to manage them. Where an LTC has already developed more guidance in an APC bylaw, and/or APC Terms of Reference, more details are available for APC members.	See previous comments. Letter from Chair to Mr. Thorn, recognizing that orientation of APC members could be improved, including a review of Conflict of Interest topics. Draft SPAPC bylaw and Terms of Reference prepared to provide greater clarity on the topic of APC Conflict of Interest for the SPAPC[16]. Staff briefing to Local Planning Committee providing alternatives for APC bylaws regarding Conflict of Interest matters.	See previous comments Development of a model APC bylaw that LTC's could use to clarify Conflict of Interest matters (Trust Council has recently assigned this task to the Local Planning Committee)	LTC amendment of APC bylaws, if the current bylaw does not clearly address Conflict of Interest matters (note: the decision to actually adopt such a bylaw rests with individual LTCs; Salt Spring Island LTC has recently adopted a bylaw and APC Terms of Reference that includes clarification regarding Conflict of Interest). Trust Council could request the LPC to work on APC orientation materials as a high priority item. At present, work is being undertaken by staff as time is available, so is proceeding slowly in relation to the LPC's other assignments. Standard term lengths for APC members (across all LTCs) could be considered so that orientation workshops for all members can be arranged in a cost-effective manner. This is less practical if LTCs appoint APC members with a range of different terms. Development of a video to provide orientation to APC members regarding Conflict of

[16] Currently on hold by resolution of the SPILTC

Concern Raised in Thorn Delegation materials	Comments	Action Taken	Action Planned	Examples of Other Potential Actions
				Interest and bias
7. That a legal opinion from Islands Trust legal counsel (Mr. Buholzer) regarding Conflict of Interest differed from an opinion from Mr. Thorn's legal counsel .	Legal analyses about Conflict of Interest matters are based on analyses of the facts provided. They are likely to differ, and especially if different facts are presented and different questions are asked. While it is unclear what information was provided to Mr. Thorn's lawyer (Mr. Kenward) and what questions were asked, the facts listed in Mr. Kenward's opinion do not make reference to key facts considered by Mr. Buholzer (i.e. Mr. Thorn's TUP application and permit, the height of his temporarily permitted building, his correspondence and discussions with staff on the topic, or his memorandum to the SPAPC). Mr. Buholzer also identified an error in Mr. Kenward's letter, where he indicates 'non-conforming use protection would apply' to a building built under a Temporary Use Permit. Mr. Thorn has provided a different understanding of Mr. Kenward's advice on this point.	Mr. Kenward's opinion was referred to Mr. Buholzer who provided comments about the reasons for a difference. The advice was conveyed to Mr. Thorn.[17] A follow up legal opinion providing more detail about the reasons for the differences in legal opinions was also provided to Mr. Thorn[18]. Mr. Thorn has also been advised that a further review of the differences between legal opinions could be conducted if he was willing to provide more information about the materials he had supplied to his legal advisor. [19]	n/a	Further review of the reasons why two legal opinions differ could be conducted, if Mr. Thorn provides further information about the information he had provided to Mr. Kenward. (This would be subject to the Executive Committee approving the related budget. Staff would not recommend undertaking a further analysis unless it is confirmed that Mr. Kenward was originally provided with the same set of facts that Mr. Buholzer considered and that further analysis of the matter would be helpful.)
8. That the Islands Trust legal counsel has incorrectly suggested that Conflict of Interest rules should apply to 'recommendation-makers', without statutory or legal authority.	Mr. Buholzer's suggestion that Conflict of Interest rules should apply to 'recommendation-makers' does not violate any legal statutes or case law. The application of Conflict of Interest guidelines to advisory bodies is consistent with *Robert's Rules of Order*, international guidelines for the public sector[20], and guidelines for	Mr. Thorn has been provided with legal advice regarding this topic and access to Islands Trust legal counsel to discuss. A meeting with Eli Mina was convened for SPILTC members, staff, SPAPC members (including Mr. Thorn as a past member) to discuss concerns. A draft bylaw was prepared for the	Guidelines for APC members are in preparation which will provide more information on this topic. Once in place, the Guidelines should help prevent future misunderstandings.	n/a

[17] See CAO letter of Jan 23, 2013
[18] See B Buholzer letter of May 17, 2013
[19] See Attachment 1-25. Mr. Thorn is under no obligation to provide this information as it is subject to solicitor-client privilege between himself and Mr. Kenward.
[20] See Whitton, H. 2005. *Managing Conflict of Interest in the Public Sector – A Toolkit*. Published by the Organisation for Economic Co-operation and Development.

Concern Raised in Thorn Delegation materials	Comments	Action Taken	Action Planned	Examples of Other Potential Actions
	many types of advisory bodies and professional organizations. It is a standard provision of many local government APC bylaws. [21] It is clear that this principle, however, is not explicit in the materials provided to APC members generally. In this case, the lack of information led to Mr. Thorn feeling that he was being accused of improper actions, without any orientation about the meaning of a Conflict of Interest, or about how to manage them.	SPAPC, to provide clarification that Conflict of Interest rules apply to APC members. [22] Trust Council has asked the Local Planning Committee to develop a model APC bylaw, which could more clearly address Conflict of Interest and bias. A briefing has been prepared for the Local Planning Committee regarding the application of Conflict of Interest rules to APC members and options that could be considered.		
9. That the Islands Trust planner proposed amendments to the SP LUB that 'bore no resemblance to the outbuilding policy' in the SP OCP.	While the SP OCP states that the SPILTC '*may consider implementing regulations that would permit outbuildings as a permitted principle use prior to construction of a residential dwelling on Rural Residential designated lands'*, it provides no direction regarding the size, height or use of such outbuildings, other than to state that residential buildings are to be the predominate use in residential zones and certain uses are to be accommodated on residential properties. This leaves a broad range of options for regulating outbuildings, while maintaining consistency with the OCP. The Islands Trust planner provided the LTC with a First Draft of LUB amendments that would have	The SPILTC is continuing to consider public input on this topic and has indicated that it may eventually consider related bylaw amendments. It has established community groups to provide advice on future LUB amendments.	To be determined by the SPILTC.	n/a

[21] See APC bylaws for the Capital Regional District (six small APCs serving populations ranging from 156 to 1650), Comox Valley Regional District (two APCs serving communities of approx. 6800 each), Strathcona Regional District (one APC serving Cortes Island – population 1042 – and one APC serving a population of 4037); Kelowna, Richmond, as some examples. See also San Juan County code for advisory groups (Section 2.116.120) which requires disclosure of potential COIs when applying to be an advisory group member; non-declaration of COIs may be grounds for removal from the advisory body.

[22] This draft bylaw is on hold, further to a resolution of the SPILTC.

Concern Raised in Thorn Delegation materials	Comments	Action Taken	Action Planned	Examples of Other Potential Actions
	implemented the OCP policy, without changes to the size or height of outbuildings. She also provided a briefing that outlined other options for building size and height. The First Draft of the LUB represented one of many options for regulating outbuildings that was consistent with the SP OCP.			
10. That the Islands Trust planner proposed amendments to the SP LUB that were inconsistent with the description given in a trustee newsletter from the previous term (June 2011), which described them as expected to have "uses such as, a storage-building, a garage, a workshop or other type of non-residential building".	The trustee newsletter actually stated that the policy "*would allow construction of a building usually permitted as accessory to a dwelling (e.g.: storage shed, pump houses, garage)*". It did not make reference to '*storage-building, workshop or other type of non-residential building*'. The first draft of potential LUB amendments was consistent with the description in this newsletter, and proposed that such buildings should be the same height as the LUB already permitted for accessory buildings. It should also be recognized that, trustees are not fettered by remarks they make in newsletters or similar remarks made their predecessors. The OCP only indicated that the SPILTC *could* consider future amendments. The details of those amendments (and whether they are actually made) could evolve considerably over time, based on public input or other factors considered by the SPILTC.	See above comments.	To be determined by the SPILTC.	n/a
11. That his comments regarding storage buildings were ignored and his correspondence was not included in the SPILTC public agenda.	All public correspondence on the topic has been provided to the SPILTC and included on the relevant agenda when the matter was before the SPILTC. This was consistent with internal practices at the time and with the policy Trust Council later adopted (Dec/2013) for handling of LTC	Mr. Thorn's input continues to be forwarded to the SPILTC and included in the SPILTC agenda packages, in accordance with Trust Council's policy.	Further community consultation is in progress regarding potential amendments to the SP LUB.	n/a

Concern Raised in Thorn Delegation materials	Comments	Action Taken	Action Planned	Examples of Other Potential Actions
	correspondence. While the First Draft of a new LUB did not reflect all aspects of Mr. Thorn's submission, the planner indicates she considered his submissions in developing the draft and did not 'ignore' them. She noted there were other opinions in the community on the topic. A briefing outlining other options regarding the size of outbuildings was developed for the consideration of the SPILTC and was also referred to the SPAPC.			
12. That a SP trustee was 'excluded' from a Resolution without Meeting (RWM) process that determined whether a letter relaying legal advice should be sent to APC members.	LTCs may use the RWM process to make resolutions. Trust Council has adopted a policy and procedures for conducting RWMs. Approximately a week prior to use of the RWM process (to decide whether the Chair should relay legal advice to Mr. Thorn) Staff had identified (to all LTC members) that the RWM process was an option (via emails between November 16 to November 22, when a vote was finally called[23]). All SPILTC trustees were notified of the Call for Vote at the same time, in accordance with Trust Council's policies. As only two votes are required to pass an LTC motion, the first two votes received will decide the outcome if they are in agreement. In this instance, the first two votes received by Staff (from the Chair and one local trustee) were in favour of the motion to send a letter. Staff then	Due to concerns raised by Trustee Montague (who has expressed concern about the RWM process related to this topic), the Executive Committee added the matter to its work program in February 2013 (to consider the development of potential amendments to Trust Council's RWM policy). The Legislative Services Manager has had some time to work on this topic recently, in consultation with Deputy Secretaries and planners. Proposed amendments to the policy are expected to be ready for Trust Council's consideration in September 2014.	Once it has finalized recommendations, the Executive Committee will propose potential amendments to Trust Council's RWM procedures. The recommended amendments are expected to provide a) a clearer procedure for a trustee who wishes to have a motion considered at a meeting, rather than by RWM b) a recommendation that the local trustees be the preferred movers and seconders of an RWM and c) procedures for phoning any trustee who has not responded to the Call for Vote within a certain period of time. However, changes in procedures would not change the actual outcome of a vote, if it is divided.	

[23] See Attachments 1-12 and 1-17

Concern Raised in Thorn Delegation materials	Comments	Action Taken	Action Planned	Examples of Other Potential Actions
	acted on the adopted resolution.			
13. That the Islands Trust has its own agenda regarding planning matters on South Pender Island, and that the real intent of the legal advice was to silence Mr. Thorn's input regarding storage buildings, in favour of staff proposals.	The legal advice received and the original letter provided to Mr. Thorn both indicate that Mr. Thorn has a right to provide input directly to the SPILTC on the topic of storage buildings. The size of storage buildings on South Pender Island is within the discretion of the SPILTC, which has authority to adopt and amend the South Pender Island LUB as it wishes, after considering staff and community advice and input. Staff has provided a range of options for the SPILTC to consider. While the SP LUB must be consistent with the *Islands Trust Policy Statement*, that document does not contain guidelines for details such as the size and height of outbuildings.	n/a.	n/a	n/a

Attachment 1
Detailed Chronology and Documents
Regarding
Concerns Raised in Mr. Thorn's Delegation Materials
(June 2, 2011 to May 24, 2013 only)

a) Mr. Thorn owns two adjacent properties on Castle Road, South Pender Island, both within the Rural Residential 2 zone.

b) The South Pender Island Land Use Bylaw 92 currently permits the construction of 'accessory' uses, buildings and structures in rural residential zones, but they must be '*incidental, secondary and exclusively devoted to a principal use, building or structure on the same lot*'. So, for example, the bylaw does not currently permit construction of such buildings before a principal use (such as a single family dwelling) has been constructed on a property.[1] Where a principal use is in place, accessory buildings may be constructed with:
   - a maximum height of 4.6 m;
   - a maximum total floor area (of all accessory buildings) of 93 m^2 (for properties the size of Mr. Thorn's).

c) On June 2, 2011, a South Pender Trustee Newsletter indicated that, upon the anticipated adoption of a new OCP, the SPILTC *'may decide in the future to consider'* the following option:
   - *'to allow an outbuilding as a permitted use on residential land prior to construction of a dwelling. This would allow construction of a building usually permitted as accessory to a dwelling (eg: storage shed, pump houses, garage) on a property without requiring the dwelling to be constructed or a building permit for a dwelling to be issued.'*

d) On July 27, 2011, the South Pender Island Local Trust Committee (SPILTC) gave third reading to a new Official Community Plan (OCP) Bylaw 107 that included the following phrases under Residential Policies:

   i) Single family residential use is to be the predominant principal land use on lands designated Rural Residential (RR).

   ii) Other allowed uses on Rural Residential designated lands are to be compatible, both in type and scale, with small lot rural residential living. Land use regulatory bylaws are to make provision for the following uses customarily associated with small lot rural living: short-term rental of a single family dwelling; home occupations; horticulture, including small-scale greenhouse and nursery uses; the keeping of poultry for domestic use; and the sale of produce originating on the lot, including the use of small roadside stands.

   iii) The Local Trust Committee may consider implementing regulations that would permit outbuildings as a permitted principal use prior to construction of a residential dwelling on Rural Residential designated lands." [OCP 3.1.2(a)]

e) On October 6, 2011, Mr. Thorn wrote to former Trustee David Greer and Island Planner Andrea Pickard (see Attachment 1a). He indicated that he wished to construct '*a small tool shed/workshop of less than 500 ft^2*, (46 m^2) on his property at 9882 Castle Road properties (where there was currently no dwelling), but was unable to do so because the existing land use bylaw had not yet been updated to reflect what he understood to be the vision of the new OCP. He urged Trustee Greer '*and future trustees to direct staff to prepare a bylaw to give legal effect to clause 3.1.2.a)iii as quickly as possible*'. [2]

f) On October 28, 2011, the SPILTC adopted its new OCP Bylaw 107.

g) On February 14, 2012, the newly-elected SPILTC passed a resolution requesting staff to '*prepare a report furthering review of the Land Use Bylaw update and include…'Climate Change' and 'Permitted Use of Land – Outbuildings' to the Land Use Bylaw review'*

h) On April 17, 2012, the SPILTC appointed Mr. Thorn to its South Pender Advisory Planning Commission (SPAPC), with a term of April 10 – December 31, 2012.

i) In June 2012, Mr. Thorn contacted Island Planner Andrea Pickard expressing concern about the delay in making amendments to the LUB, in order to permit construction of a non-

[1] http://islandstrust.bc.ca/ltc/sp/pdf/spbylbaselub0092.pdf, definitions, s. 5.2.
[2] Mr. Thorn was subsequently advised that his letter would not appear on an agenda of the SPLTC in 2011, as there were no further meetings scheduled that year due to the imminent local government elections; rather, it would appear on the agenda of the new local trust committee, after it had convened its first meeting in 2012.

residential building on his property. He was advised of the option of obtaining a Temporary Use Permit.

j) On July 9, 2012, the Capital Regional District (CRD) placed a Stop Work Order on Mr. Thorn's property at 9882 Castle Road, referring to a foundation that had been poured for a 'garage' with a 12'x32' footprint (384 ft^2/36 m^2) without a Building Permit. The Stop Work Order notes 'land use issues to be resolved prior to permit being issued'.

k) On August 20, 2012, Mr. Thorn applied for a Temporary Use Permit (TUP) and a Development Variance Permit[3] related to the structure under construction on his property at 9882 Castle Road (see Attachment 1-2). In his TUP application, Mr. Thorn indicates the outbuilding is of the type he believes is envisioned in the recently adopted OCP and that he expects that, before expiry of the TUP, the South Pender LUB will have been updated to permit this type of outbuilding. He further indicates that he expects 'the structure pursuant to this application to become normalized as a permanent 'outbuilding' once the LUB is updated' and therefore he 'does not plan to take any steps to restore the land or remove the building'.

l) On September 19, 2012, the SPILTC passed a resolution authorizing Mr. Thorn's Temporary Use Permit for a three year period (until September 19, 2015) (see Attachment 1-3). The permit allows:

   a. construction of a non-residential outbuilding for storage and workshop, accessory to the adjacent residential property.
   b. a maximum floor area of 53.2 m^2 /572.6 ft^2
   c. a maximum height of 5.7m/18.7ft – 1.1 m higher than would be permitted for an accessory building under the existing bylaw.

   Not permitted are: human habitation, commercial storage, toilet or kitchen facilities. The permit indicates that '*this permit is valid for three years from date of issuance of the permit (i.e. until September 19, 2015) and upon expiry of the permit, the owner of the site shall discontinue the temporary use to the satisfaction of the Islands Trust unless the permit is renewed by resolution of the SPILTC'.*

m) Also on September 21, 2012, the SPILTC referred a first draft of LUB revisions to the SPAPC for comment (Attachment 1-4). In regards to 'storage buildings', the draft LUB wording suggested amendments that would permit a 'storage building' as a separate permitted use on a property (in the absence of a principal dwelling, for example) with the following conditions:

   - Uses would be limited to storage of goods and materials for use on the lot and personal effects of the owner of the lot, with no commercial storage permitted
   - One storage building per lot.
   - Maximum height of 4.6 m/15ft (consistent with the restrictions that the current bylaw places on accessory building height)
   - Maximum floor area of 25 m^2/269 ft^2 for individual buildings.[4]

n) On November 2, 2012, the SPAPC considered the draft LUB amendments and a staff briefing that outlined other options and considerations regarding the floor area and height of outbuildings. The SPAPC also considered a 10-page memorandum regarding potential LUB amendments, prepared by SPAPC member Cameron Thorn (Attachment 1-5). The memorandum devotes several pages of discussion to the topic of 'outbuildings' and includes the following suggestions:

   - That the draft LUB is inconsistent with vision in the new OCP, in regards to out-buildings.
   - That a broader variety of permitted uses should be included for out-buildings (in addition to 'storage').

[3] Mr. Thorn also applied for a Development Variance Permit at the same time, to address the greater height he wished to have for his building. As Development Variance Permits cannot be used to vary 'uses', and because the greater height could be addressed in a Temporary Use Permit, staff advised him to withdraw the Development Variance Permit application. He did so and received a refund. The greater height was then addressed in the Temporary Use Permit. This meant that, if the SP LUB was not amended to permit outbuildings of greater height before his TUP expired, Mr. Thorn would have to take further action [e.g. apply for another Temporary Use Permit (if outbuildings did not become a permitted use), apply for a Development Variance Permit (if outbuildings became a permitted use, but not with a greater height), change the use of the building, or remove it.]

[4] If the SPILTC were to eventually pass the draft LUB as written in this first draft, Mr. Thorn would not have been able to use his building in accordance with the intent described in his TUP application, although it could potentially have been used in other ways.

- That the proposed height should be greater than that proposed in the draft LUB amendments (e.g. 20 ft/6m).
- That the maximum floor area should be greater than that proposed in the draft LUB amendments (e.g. $93m^2/1000ft^2$).

The APC decided to include Mr. Thorn's memorandum in the minutes it forwarded to the SPILTC and made related and other recommendations regarding the referral. (Attachment 1-6)

o) On November 13, 2012, the SPILTC considered the APC's minutes as a late item on its agenda. Shortly before or after the meeting adjourned, Island Planner Pickard asked the SPILTC Chair if the SPAPC had considered (or should have considered) whether Mr. Thorn might have a Conflict of Interest in the matter.[5]

p) On November 14, 2012, Mr. Thorn emailed the SPILTC minute taker (with a cc to SPILTC Chair Hancock), expressing concern because he had been told that Chair Hancock had suggested that he should have recused himself from discussions at the APC meeting. Mr. Thorn asked the SPLITC minute taker to confirm this would not be reflected in the SPILTC minutes (Attachment 1-7).

q) On November 15, 2012, Chair Hancock emailed Mr. Thorn, to indicate that he had not suggested that Mr. Thorn should have recused himself, but as there were grounds for considering whether a Conflict of Interest situation existed, the matter would be referred to staff for advice. (Attachment 1-8)

r) On November 15, 2012, Mr. Thorn emailed Chair Hancock, providing further information and perspectives on the matter. (Attachment 1-9)

s) On November 16, 2012, Chair Hancock emailed Mr. Thorn, indicating the matter would be referred to staff for advice and noted some rationale for further consideration of the topic. (Attachment 1-10)

t) On November 16, 2012, Regional Planning Manager Robert Kojima discussed the topic with Legislative Services Manager Carmen Thiel. Staff decided to seek legal advice to resolve the question. Islands Trust legal counsel (Mr. Buholzer) was provided with the following information:

1. The relevant OCP policies.
2. Mr. Thorn's correspondence of October 6, 2011 and the date it was considered by the SPILTC.
3. Mr. Thorn's property holdings on South Pender Island.
4. The SPILTC's initiatives re LUB amendments
5. Details of Mr. Thorn's appointment to the APC.
6. Information about Mr. Thorn's verbal contact with staff, expressing concern about the timing of potential LUB amendments that would permit construction on his property.
7. Mr. Thorn's TUP application and the TUP issued.
8. The Draft LUB that had been considered by the SPILTC on September 19, 2012 and referred to the SPAPC.
9. The SPAPC minutes of November 2, 2012, including Mr. Thorn's memorandum.
10. Information about five options Mr. Thorn would have if the SP LUB was not amended before his TUP expired.
11. Mr. Thorn's email correspondence of November 14-16, 2012, providing his perspectives on the situation, including the various options he understood he had for his property.
12. Chair Hancock's email responses to Mr. Thorn between November 14-16, 2012.
13. The general status of construction of Mr. Thorn's building (re the CRD Stop Work Order).

[5] While this conversation has been reported differently by different attendees at the meeting, this briefing relies on the recollections of staff. Island Planner Pickard indicated she raised the matter informally shortly before or just after adjournment of the meeting, with the Chair of the SPILTC, so the topic could be considered, particularly as she noted Mr. Thorn's recommendations seemed closely related to the building he had begun to construct on his own property, under a temporary use permit. This action of the planner is consistent with Trust Council guidelines which indicate staff should advise trustees of concerns about bias or Conflict of Interest.

u) On November 16, 2012, Mr. Buholzer provided a legal opinion (Attachment 1-11) [6] indicating that, based on the information provided, he felt Mr. Thorn did have a personal interest in how the South Pender Island LUB addressed outbuildings/storage buildings and should therefore not participate in APC discussions of the topic. He suggested that Mr. Thorn be advised of this and noted that nothing should prevent Mr. Thorn from giving the SPILTC his perspectives outside the APC meeting.

v) On November 16, 2012, Regional Planning Manager Robert Kojima forwarded the legal advice to members of the SPILTC and asked them to consider how best to communicate the matter to Mr. Thorn and the Chair of the SPAPC (Attachment 1-12). He indicated that he hoped the SPAPC Chair would be willing to meet with staff to discuss the topic.

w) On November 16, 2012, Legislative Services Manager Carmen Thiel wrote to SPAPC Chair Buffy Patterson, suggesting a meeting to discuss various procedural matters, including Conflict of Interest (Attachment 1-13).

x) On November 16, Mr. Thorn wrote to Chair Hancock with additional comments (Attachment 1-14)

y) On November 21, 2012, the SPAPC Chair responded to Carmen Thiel, indicating that a meeting to discuss procedural and Conflict of Interest matters was not necessary and indicating her views on other aspects of the topic. The SPAPC Chair's email was forwarded to members of the SPILTC for their information. (Attachment 1-15)

z) On November 22, 2012, after considering the legal opinion and some options for communicating about it, RPM R Kojima indicated to members of the SPILTC his understanding that they wished to have a RWM regarding a letter (Attachment 1-16) the SPILTC passed a Resolution without Meeting requesting the Chair to *'send the letter dated November 23, 2012 outlining the legal advice that has been received by the Islands Trust concerning APC Conflict of Interest to Cameron Thorn and the APC Chair'.* (Attachment 1-17)

aa) On November 23, 2012 the SPILTC Chair sent a letter to Mr. Thorn and the SPAPC Chair relaying the legal advice received (Attachment 1-18). The letter was also copied to other members of the SPAPC.

bb) On November 26, 2012, Mr. Thorn wrote to CAO Linda Adams, indicating concerns with the process by which legal advice had been obtained and conveyed. He further indicated he required legal counsel and asked where related invoices should be sent (Attachment 1-19).

cc) On November 26, 2012, CAO Linda Adams emailed Mr. Thorn to indicate she would review his concerns and recommending that he not incur legal expenses (Attachment 1-20).

dd) On November 30, 2012, CAO Linda Adams wrote to Mr. Thorn to respond to his concerns and confirming that the Islands Trust did not authorize expenditures regarding private legal advice. She advised him of other avenues for complaint and discussed working relationships (Attachment 1-21).

ee) On January 4, 2013, Peter Kenward of Clark Wilson (legal counsel for Cameron Thorn) wrote to CAO Linda Adams with an opinion related to Cameron Thorn (Attachment 1-22).

ff) On January 9, 2013, CAO Linda Adams forwarded Mr. Kenward's letter to Mr. Buholzer and asked for advice regarding it.

gg) On January 12, 2013, CAO Linda Adams received a phone call from Mr. Thorn expressing further concerns about process. She advised him of the Islands Trust's Administrative Fairness Complaint process. Mr. Thorn asked that further correspondence be sent to him rather than his legal counsel and indicated he would provide the Islands Trust with the information he had provided to his legal counsel. He suggested that the Islands Trust should reimburse him for his legal expenses to date.

hh) On January 14, 2013, preliminary legal advice was received from Mr. Buholzer, as requested on January 9.

ii) On January 16, 2013, CAO Linda Adams wrote to Mr. Thorn to confirm the Islands Trust's Administrative Fairness Complaint process, advising him of next steps he could follow and invited him to provide further information (Attachment 1-23).

[6] Solicitor-client privilege for this letter was later waived by resolution of the Executive Committee in July 2013.

jj) On January 18, 2013, Mr. Thorn wrote to CAO Linda Adams, outlining concerns with the process to be followed and asking for information about how Mr. Kenward's opinion differed from Mr. Buholzer's (Attachment 1-24).

kk) On January 23, 2013, CAO Linda Adams wrote to Mr. Thorn, with further information about the Administrative Fairness Complaint process, and relaying legal advice about the reasons that Mr. Kenward's opinion may have differed from Mr. Buholzer's. She advised that a further review of difference would require Mr. Thorn to provide the information he had provided to his legal counsel. She also offered Mr. Thorn the opportunity to provide information and discuss the topic of Conflict of Interest directly with Mr. Buholzer, if he wished (Attachment 1-25).

ll) On January 25, 2013, Mr. Thorn wrote to CAO Linda Adams, providing a response to her letter of January 23, 2013 (Attachment 1-26).

mm) On January 29, 2013, Trustee Montague wrote to CAO Linda Adams, outlining her concerns and providing additional information (Attachment 1-27).

nn) On February 5, 2013, the Executive Committee considered Mr. Thorn's concerns at an *in camera* meeting. It considered relevant facts in the case, including legal advice, and related correspondence from the interested parties. As the complaint concerned Vice-Chair Hancock, the Executive Committee considered his input, but he was not present when a decision was made about how to respond to Mr. Thorn. The Executive Committee passed a resolution requesting the Chair to respond to Mr. Thorn, conveying a specific response.

oo) On February 21, 2013, the Islands Trust Chair wrote to Mr. Thorn to respond to his concerns, in accordance with the Executive Committee's resolution (see Attachment 1-28)

pp) On April 16, 2013, the SPILTC directed staff to prepare a bylaw to amend the SPAPC bylaw and to prepare draft APC Terms of Reference.

qq) On May 17, 2013, Mr. Buholzer provided a formal supplementary legal opinion, in response to a request from RPM Robert Kojima. It provided more detailed reasons regarding the factors considered in his original legal opinion and why it differed from Mr. Kenward's (Attachment 1-29)[7].

rr) On May 21, 2013, Mr. Thorn had a telephone conversation with CAO Linda Adams, indicating that he would be interested in meeting with Mr. Buholzer as previously suggested.

ss) On May 21, 2013, CAO Linda Adams wrote to Mr. Thorn, indicating that Mr. Buholzer was authorized to meet with him to discuss Conflict of Interest matters.

tt) On May 24, 2013 Bill Buholzer provided a memorandum summarizing his meeting with Mr. Thorn of the same date (see Attachment 1-30)[8].

uu) On June 18, 2013 the SPILTC considered a staff report regarding a draft APC bylaw and Terms of Reference that would clarify how APC members should respond if they had a Conflict of Interest (i.e. that they should declare conflicts and recuse themselves). The SPILTC resolved to '*defer consideration of the draft bylaw and terms of reference pending a future Trust-wide discussion regarding Advisory Planning Commission (APC) Conflict of Interest and remove the item from the Top Priorities List'.*

vv) On July 16, 2013, Trustee Montague wrote to the Local Planning Committee regarding APC conflict of interest matters, suggesting it should be considered at a Trust-wide level.

ww) On July 19, 2013, Chair Sheila Malcolmson met with Mr. Thorn to discuss his concerns.

xx) On July 22, 2013, Mr. Thorn wrote to CAO Linda Adams in support of the potential waiver of solicitor-client privilege regarding legal opinions related to him (re Conflict of Interest on the SPAPC)

yy) On July 23, 2013, the Executive Committee waived solicitor-client privilege over certain legal opinions related to Mr. Thorn and APC Conflict of Interest. These were then provided to Mr. Thorn.

zz) Between August 2013 and March 2014, various steps were taken regarding consideration of this topic by the Local Planning Committee and individual trustees, culminating in Trust Council's resolutions of March 2014 (noted at the beginning of this briefing).

[7] Solicitor-client privilege for this letter was waived by resolution of the Executive Committee in July 2013
[8] Solicitor-client privilege for this letter was waived by resolution of the Executive Committee in July 2013

CAMERON A. THORN

October 6, 2011

David Greer
Trustee, South Pender Island
9958 Gowland Point Road
South Pender Island, BC V0N 2M3

Andrea Pickard
Island Planner, Islands Trust
200 – 1627 Fort Street
Victoria, BC V8R 1H8

RE: South Pender OCP and Outbuildings Prior to Residential Dwelling

I appreciate the time you have both taken over the course of the summer to discuss with me the 2011 South Pender Official Community Plan (OCP) and the various principles and objectives of the OCP as they relate to land use and the particulars of my own properties on Castle Road.

I attended the July 2011 Public Hearing for the OCP and support the roadmap that it provides regarding future development and the preservation of the rural character of the island. I certainly want to undertake future improvements to my properties consistent with the spirit of the OCP and feel that a discussion is important now to ensure that the land use bylaws (both current and as they may be amended) do not thwart the intentions of the OCP.

In 2006 my wife and I purchased a parcel of land on Castle Road (9884 Castle Road). In July 2011 we purchased the adjacent parcel of land (9882 Castle Road). The properties are each zoned RR thereby providing the ability to construct a single-family home on each property along with an accessory building on each property of up to one thousand square feet in size.

Our decision to purchase the neighbouring vacant land was based on ensuring a sense of privacy and quiet and preserving as large a natural buffer as possible between us and the neighbours farther to the west. We have constructed a small structure (our current residence) of less than a 1000 square feet on the original parcel and may elect to eventually build a larger single-family dwelling on our second property. Based on our long-term intentions for the two properties, I can report that our neighbours on either side - at 9886 and 9880 Castle Road - are delighted that we purchased the second property.

The new South Pender OCP describes a number of objectives including, Section 2.4.6 which states that "Landowners are encouraged to consolidate undeveloped lots, particularly those smaller than the existing lot minimum size requirements, to assist in retaining the Island's rural character." Although we do not plan to consolidate our two lots, our intention is to undertake improvements on the lots consistent with the retention of the Island's rural character.

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

CAMERON A. THORN

In the course of building our current residence and undertaking other improvements I have acquired an array of tools that I want to be able to properly store and protect; I would also like some indoor workshop space. This past summer I spoke with Chris Watson regarding my intention to submit a building permit application to construct a small tool shed/workshop of less than 500 square feet; the tool shed/workshop was to be located on 9882 Castle Road, the property we had just bought.

Chris Watson and I determined, and Andrea Pickard subsequently confirmed, that although the new South Pender Island OCP envisions under 3.1.2.a) iii, the implementation of regulations permitting outbuildings as a permitted use prior to the construction of a residential dwelling, the existing 2003 Land Use Bylaw has not yet been updated to reflect this vision of the new OCP. Accordingly Mr. Watson was unable to accept my building permit application to construct the structure.

As you can appreciate, I do not want to have to build a single-family dwelling on the new property in order to qualify to build a tool shed!

Andrea, your efforts were appreciated to ponder options that might allow me to proceed with the construction of the accessory building in a timely manner. If I wished to build the accessory building in a manner fully compliant with the Island Trust, the two options were a) spend $1,100.00 to make application for a temporary use permit or b) lobby the Trust to instruct staff to bring forward land use regulations to give legal effect to clause 3.1.2.a) iii of the OCP.

Given Andrea and I did not start discussing temporary use permits until August 2011, Andrea was doubtful if my $1,100 expenditure would even result in approval by the Trust Committee of a temporary use permit prior to the elections in November 2012. Secondly, given the delays created by the election and the need to get any new Trustees up to speed on issues, the Temporary Use Application would mostly likely, not get addressed until January or February 2012.

David, as it appears there are no quick mechanisms to enable the Islands Trust to grant approval to build the structure, I would formally request that you and future Trustees direct staff to prepare a bylaw to give legal effect to clause 3.1.2.a) iii as quickly as possible.

Thank you for giving serious consideration to my request above. I look forward to hearing from you soon.

Best Regards,

Cameron Thorn

cc. Wendy Scholefield, Trustee, South Pender Island

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

Islands Trust

Victoria Office
200 - 1627 Fort Street
Victoria, BC V8R 1H8
Telephone: 250.405.5151
Fax: 250.405.5155
information@islandstrust.bc.ca
North Pender, South Pender, Galiano, Mayne, Saturna, Executive

Salt Spring Office
1 - 500 Lower Ganges Road
Salt Spring Island, BC V8K 2N8
Telephone: 250.537.9144
Fax: 250.537.9116
ssiinfo@islandstrust.bc.ca
Salt Spring

Northern Office
700 North Road
Gabriola Island, BC V0R 1X3
Telephone: 250.247.2063
Fax: 250.247.7514
northinfo@islandstrust.bc.ca
Denman, Gabriola, Gambier, Hornby, Lasqueti, Thetis

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ISLANDS TRUST
VICTORIA BC

Preserving island communities, culture and environment
www.islandstrust.bc.ca
Toll Free via Enquiry BC in Vancouver 660-2421. Elsewhere in BC 1.800.663.7867

Attach 1-2

Temporary Use Permit Application Form

Print Form

Office Use Only

Fee Paid: $1100.00 Receipt No.: 2356 File No.: SP-TUP-2012.1

○ Initial Permit (maximum three years) ○ Amendment (to an existing permit) ○ Renewal (maximum three years and can only be renewed once)

SECTION 1: DESCRIPTION OF PROPERTY
(AS INDICATED ON STATE OF TITLE CERTIFICATE)

Lot/Parcel SL 13 Plan VIS 3428 Block _____ District Lot/Section SECTION 4

Range _____ Other Description PENDER ISLAND, COWICHAN DISTRICT

Street Address or General Location 9882 CASTLE ROAD, PENDER ISLAND

Jurisdiction and Folio Number 764-GULF ISLAND RURAL (From Property Assessment/Tax Notice) FOLIO # 01764 08038.110 0 12

Parcel Identifier (PID) 023-066-377 (From State of Title Certificate)

SECTION 2: OWNER INFORMATION
(ADD ADDITIONAL PAGE IF MORE THAN TWO OWNERS)

First Owner Information

CAMERON THORN
Name
216-2780 ACADIA ROAD
Street Address
City VANCOUVER Region BC
Postal/Zip Code V6T 2L3
Telephone 604.317.8174
Fax _____
E-mail cameron@cameronthorn.com

Second Owner Information

Name _____
Street Address _____
City _____ Region _____
Postal/Zip Code _____
Telephone _____
Fax _____
E-mail _____

SECTION 3: APPLICANT INFORMATION
(IF DIFFERENT FROM OWNER)

Name _____ Street Address _____

City _____ Region _____ Postal/Zip Code _____

Telephone _____ Fax _____ E-mail _____

Freedom of Information and Protection of Privacy

Personal information contained on this form is collected under the *Local Government Act* for the purpose of responding to this application, or for purposes directly connected with this application. Information on your application form may be available to the public upon request under freedom of information legislation. Please contact a Deputy Secretary at one of the above noted offices if you have any questions

The processing of your application will be delayed if it is incomplete. Please read the guide before you complete the application form. Keep the guide for your reference during the application process. Contact a staff person for assistance.

Mail or deliver the completed application form, fee, plans and supporting material to the Islands Trust Office. The fee is payable to the Islands Trust. Contact Islands Trust staff for the current fee prior to submitting your application as fees may change annually.

SECTION 4: Provide one full-scale, and three (3) reduced (11 x 17) copies of a detailed site plan and other drawings that must include the following:

- ☐ location of all wetlands, sewage disposal field(s), septic tanks, wells, drainage areas, ponds and topograhy
- ☐ existing and proposed uses on parcel
- ☐ uses of existing and proposed buildings
- ☐ dimensions and/or floor areas of existing and any proposed buildings
- ☐ height of existing and proposed buildings/additions
- ☐ setback of all existing and proposed buildings, septic tanks and fields and wells to property lines, natural boundary of sea and cliffs
- ☐ parking areas including numbered parking stalls, aisle widths, stall dimensions (where applicable)
- ☐ existing uses and locations of buildings on immediately adjacent lots
- ☐ landscaping plan showing existing and proposed landscaping. Also, include an estimate of the cost of landscaping, provided by a Landscape Architect or qualified professional. This estimate will be used to determine the amount of any security required for the development. (Alternatively, the above can be included in the site plan)
- ☐ elevation plan
- ☐ proposed building materials to be used
- ☐ existing and proposed signs including dimensions and proposed building materials
- ☐ proposed alterations to building elevations

If the space provided below for each section is not sufficient, please attach additional information using a Microsoft Word, Excel, Text or a separate PDF Document.

SEE ATTACHED WORD DOCUMENT

SECTION 5: Describe the current uses of the land and buildings on the property.

SECTION 6: Describe the proposed temporary uses of the land and buildings.

SECTION 7: Describe the time period required for the temporary use.

SECTION 8: If the property is subject of a lease, provide details of the lease.

SECTION 9: Describe the reasons for the proposed temporary use.

SECTION 10: Describe the steps that will be taken to restore the land or buildings after completion of the temporary use. Additional information may be requested during the review of this application. Security may be requested as a guarantee of performance of the terms of the permit.

SECTION 11: APPLICATION COMPLETION CHECKLIST

- [x] I have completed all sections of this application form
- [x] I have included detailed site plans and elevation drawings as required in Section 4 of this application form
- [x] I have included recent State of Title Certificate (not more than 30 days old)
- [x] I have included copies of all covenants registered against this title
- [x] All owners listed on the title have signed the application
- [x] I have included the correct fee (Contact Islands Trust staff for current fees)

IMPORTANT: Your application will not be considered complete unless it contains all of the information above.

A Note about Obtaining State of Title Certificate and Covenants: State of Title Certificate and covenants may be obtained from the Land Title Office or through your local government agent office for a fee.

SECTION 12: OWNER'S CONSENT AND AUTHORIZATION

(Signature of all registered owners is required. For additional owners, including Strata Corporations, attach a separate sheet)

In order to assist Islands Trust Planners in the review and evaluation of my application, by signing below, I authorize the Planners assigned to this application to enter onto the land at reasonable times, after making reasonable efforts to arrange to schedule a convenient time for such a visit, to inspect the land. I acknowledge a right, if a convenient time can be scheduled, to accompany the Planner on the site visit.

By signing below, I authorize the Applicant named in Section 3 of this application to represent this application:

First Consent and Authorization

Consent and Authorization Signature

AUGUST 20, 2012

Date

Second Consent and Authorization

Consent and Authorization Signature

Date

SECTION 13: SUPPLEMENTAL INFORMATION REQUIREMENT (IF APPLICABLE)

If you are applying for a Temporary Use Permit for either "Vacation Rentals" or "Bulk Water Sales", please complete a Temporary Commercial and Industrial Use **Supplemental Application Form**, which must be submitted along with the Application Form and which forms part of this application.

Print Form

Contaminated Sites Regulation

Please note that pursuant to Section 4(4) of the Contaminated Sites Regulation, B.C.Reg. 375/96, site profile is not required and will not be accepted by the Islands Trust. If you have any questions, please contact the Islands Trust office.

Temporary Use Permit Application Form

9882 Castle Road, Pender Island, BC
PID: 023-066-377

Section 5: Describe the current uses of the land and buildings on the property:
9882 Castle Road is an undeveloped parcel of land that is largely forested and is slightly over 1 acre in size. There are no buildings on the property. My wife and I are the owners of 9884 Castle Road that is located immediately to the east of 9882 Castle Road; we have constructed a home on 9884 Castle Road.

Section 6: Describe the proposed temporary uses of the land and buildings:
My intention is to use the building as an outbuilding, which is a type of structure envisioned in the recently adopted South Pender Island Official Community Plan as existing prior to the construction of a single family dwelling The uses of the land and building will be consistent with the uses permitted for accessory buildings under the current South Pender Island Land Use Bylaw. That is, the buildings will not be used for habitation but will be used for a variety of purposes including storage of tools and equipment, engaging in arts and crafts, home office space and socializing.

Section 7: Describe the time period required for the temporary use:
In response to a directive by the Local Trust Committee, Islands Trust staff are working on updates to the existing South Pender Land Use Bylaw (LUB) to ensure it reflects the vision of the recently adopted South Pender Official Community Plan. One of the updates relates to Section 3.1.2 (a) (iii) of the OCP and implementation of "regulations that would permit outbuildings as a permitted principal use prior to the construction of a residential dwelling on Rural Residential designated lands." The building that is the subject of this Temporary Use Permit (TUP) is an "outbuilding" that will be constructed prior to the eventual construction of a residential dwelling on the same parcel. There is a three (3) year time period associated with the TUP and I expect that within the next three years the South Pender LUB will have been updated to permit outbuilding as a permitted use prior to the construction of a residential dwelling. Once the outbuilding becomes normalized under the updated LUB, it can be regarded as a permanent structure and will not rely on the TUP or extensions to the TUS for its continued existence.

Section 8: If the property is the subject of a lease, provide details of the lease:
This property is not subject to a lease.

Section 9: Describe the reasons for the proposed temporary use:
An application for a temporary use permit is being submitted because I wish to construct an outbuilding on my property prior to the adoption of the updated South Pender Land Use Bylaw. My response under Section 7 is also relevant to Section 9.

Section 10: Describe the steps that will be taken to restore the land or buildings after completion of the temporary use:

The only reason I am utilizing the TUP process is because I do not wish to wait for the adoption of an updated LUB that (most likely) will otherwise permit the type of outbuilding I seek to construct. As noted under Section 7, I expect the structure pursuant to this application to become normalized as a permanent 'outbuilding' once the LUB is updated and therefore I do not plan to take any steps to restore the land or remove the building.

Islands Trust

200–1627 Fort Street Victoria BC V8R 1H8
Telephone **250.405.5151** Fax 250.405.5155
Toll Free via Enquiry BC in Vancouver 660-2421. Elsewhere in BC **1.800.663.7867**
Email information@islandstrust.bc.ca
Web www.islandstrust.bc.ca

September 19, 2012 File Number: SP-TUP-2012.1

Cameron Thorn
#216 – 2780 Acadia Road
Vancouver BC V6T 2L3

Dear Cameron Thorn:

Re: Strata Lot 13, Section 4 Pender Island, Cowichan District, Strata Plan VIS3428

Your Temporary Use Permit No. SP-TUP-2012.1 has been approved for the above mentioned property and a copy is attached.

If you have any questions regarding this permit, please contact Andrea Pickard, Planner at (250) 405-5189.

Yours truly,

Kathy Jones
Planning Clerk
Local Planning Services

Attachment(s)

pc: South Pender Island Local Trust Committee
Janet Grute, BC Assessment Authority
Robert Gutierrez, CRD Building Inspection

Islands Trust

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE

TEMPORARY USE PERMIT

SP-TUP-2012.1

TO: Cameron Thorn

1. This Temporary Use Permit applies to the land described below:

   Strata Lot 13, Section 4, Pender Island, Cowichan District, Strata Plan VIS3428, Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form 1. PID: 023-066-377.

2. This permit is issued for the purpose of allowing the following use:

   a) A non-residential building for the purpose of general storage and workshop accessory to the adjacent residential property.

3. The uses may be carried on subject to the following conditions:

   a) Construction and land alterations shall be substantially consistent with Schedules 'A' and 'B' attached to and forming part of this permit;

   b) The building has a maximum floor area of 53.2 m^2;

   c) The building has a maximum height of 5.7 m;

   d) The building is not used for human habitation; and

   e) For certainty, there is no commercial storage use permitted.

   f) No toilet or kitchen facilities shall be installed.

4. This permit is valid for three years from date of issuance of the permit and upon expiry of the permit the owner of the site shall discontinue the temporary use to the satisfaction of the Islands Trust unless the permit is renewed by resolution of the South Pender Island Local Trust Committee.

5. This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of "South Pender Island Land Use Bylaw No. 92, 2003" and to obtain other approvals necessary for completion of the proposed development, including approvals from the Capital Regional District, Vancouver Island Health Authority and Ministry of Transportation and Infrastructure.

AUTHORIZING RESOLUTION PASSED BY THE SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE THIS 18th DAY OF September, 2012.

Kathy

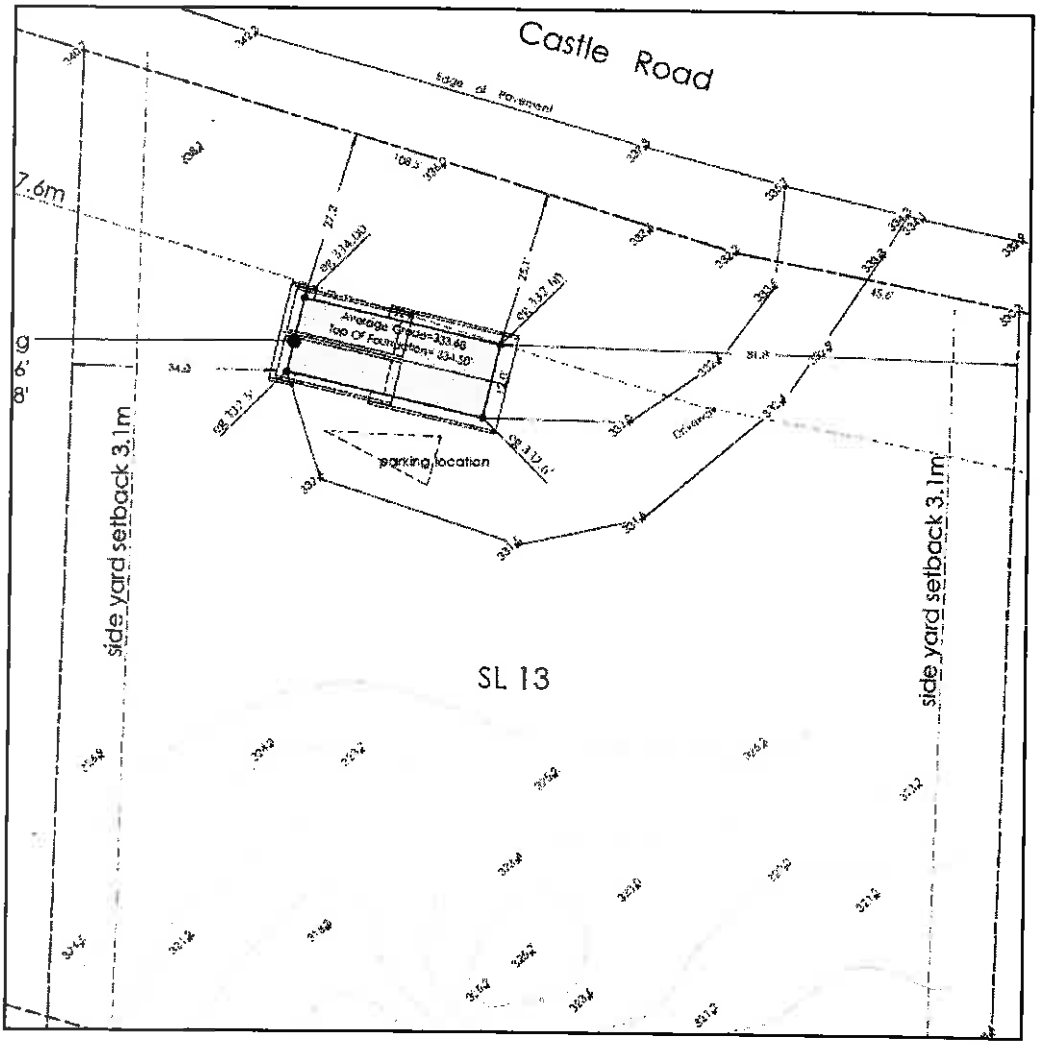
Deputy Secretary, Islands Trust

September 19 2012

Date of Issuance

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE
SP-TUP-20012.1
SCHEDULE 'A'

Site Plan



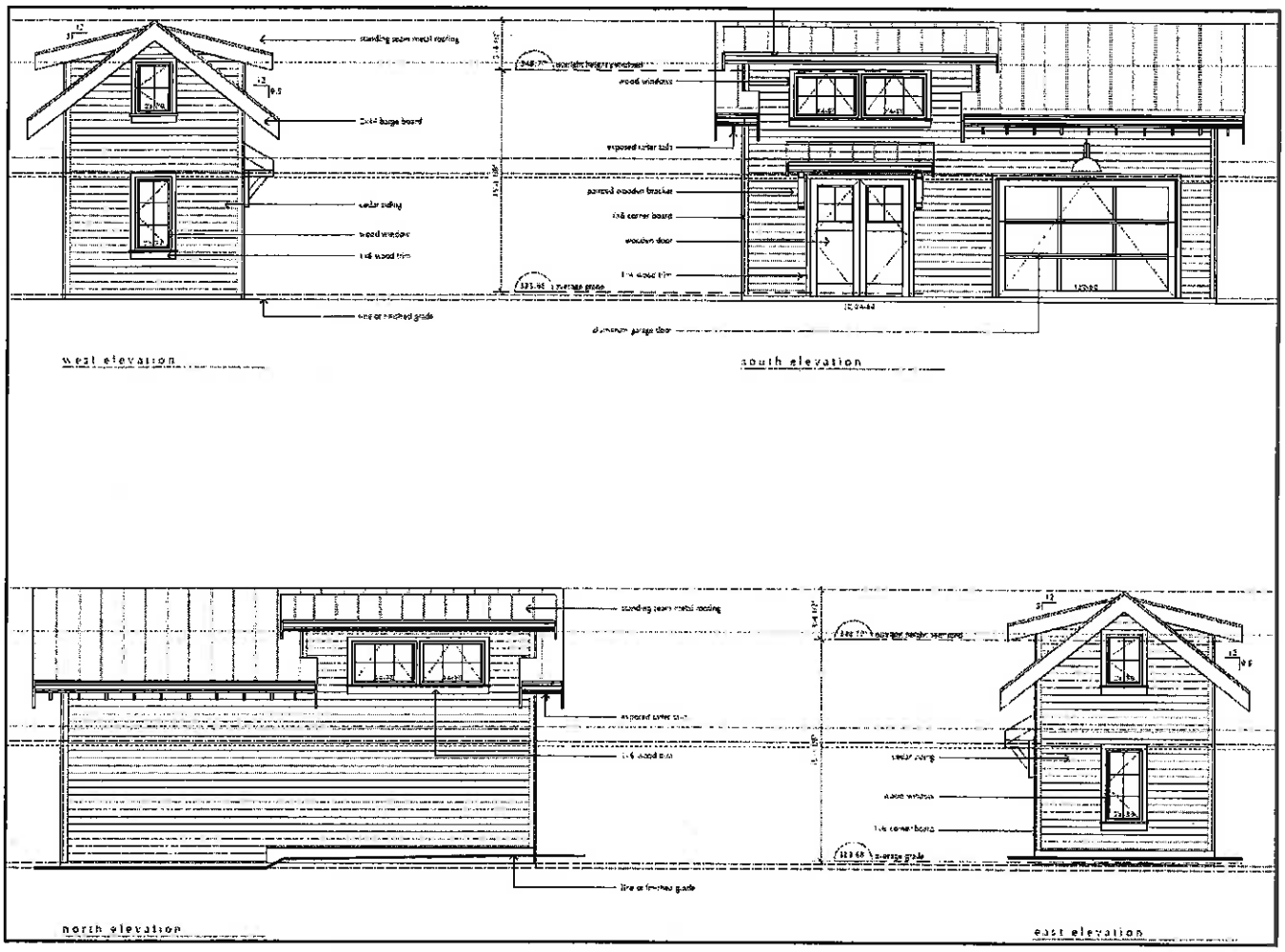
I hereby certify this to be Schedule A which is attached to and forms part of Temporary Use Permit No. SP-TUP-2012.1.

Signature of Islands Trust Official

September 19, 2012
Date of Issuance

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE
SP-TUP-20012.1
SCHEDULE 'B'

Building Elevations



I hereby certify this to be Schedule B which is attached to and forms part of Temporary Use Permit No. SP-TUP-2012.1.

Signature of Islands Trust Official

September 19, 2012
Date of Issuance

200-1627 Fort Street, Victoria, BC V8R 1H8
Telephone **250 405-5151** Fax 250 405-5155
Toll Free via Enquiry BC in Vancouver 660-2421.
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Email information@islandstrust.bc.ca
Web www.islandstrust.bc.ca

September 21, 2012 File Number: 3050-20-09 APC Referrals

South Pender Island Advisory Planning Commission

Re: Referral to Advisory Planning Commission – Draft Bylaw 111

At the meeting of September 18th, the South Pender Island Local Trust Committee (LTC) passed a resolution referring the Draft Bylaw 111 to the Advisory Planning Commission (APC). Additionally, the LTC directed staff to include the matter of the maximum permitted height of accessory buildings to the APC for comment.

Draft Bylaw 111 would amend the South Pender Island Land Use Bylaw (LUB) and the key amendments are:

- Floor area would be measured from the interior side of the outside walls rather than the exterior side: the objective is to remove a barrier for owners considering cob, straw bale or low energy building using double walled, R-40 design.
- Allowing ocean-based geoexchange (geothermal) systems in the marine zones, which would be limited to systems using only freshwater as the circulating heat transfer fluid.
- Permit and regulate storage buildings as a principal use in zones where a residential use is also permitted; this would allow one storage building to be legally constructed without a dwelling on the property.
- To change the required setback for pump/utility houses from 0 (currently exempt) to 3.0 metres to coincide with building code requirements.
- Reduce the setback for ground level solar collectors, less than 4.6 metres in height to 3.0 metres.
- Allow attached dwellings on those lots where two or more dwellings are permitted.
- Limit the maximum size of a single family dwelling to 375m^2 (4036ft^2).
- Exempt above or below ground utility lines from the definition of structure, setbacks would then not apply.

A copy of Draft Bylaw 111 is enclosed, as is a brief memo with information for your consideration regarding accessory building height. A response is kindly requested before November 1st. Feel free to contact me if you have any questions concerning the referral items or require more information.

Sincerely,

Andrea Pickard

Andrea Pickard
Local Planning Services
apickard@islandstrust.bc.ca
(250) 405-5189

Enclosure(s)
pc: South Pender Island Local Trust Committee (email)
Robert Kojima, Regional Planning Manager (email)

Memorandum

200 - 1627 Fort Street Victoria BC V8R 1H8
Telephone **(250) 405-5151** FAX: (250) 405-5155
Toll Free via Enquiry BC in Vancouver 660-2421. Elsewhere in BC
1.800.663.7867
information@islandstrust.bc.ca www.islandstrust.bc.ca

Date September 21, 2012 File: SP-6500-20 LUB Review 2012

To: South Pender Island Local Trust Committee

From: Andrea Pickard
Island Planner
Local Planning Services

CC: South Pender Island Advisory Planning Commission

Re: Accessory Buildings and Height Regulations

At the September 18th meeting of the South Pender Island Local Trust Committee (LTC) the LTC directed staff to refer Draft Bylaw 111 to the Advisory Planning Commission and to include the topic of accessory building height regulations and to provide some information to assist with the discussion. Below is a summary of some issues related to regulating accessory building height.

Accessory Buildings and Maximum Height Regulations

The South Pender Island Land Use Bylaw currently restricts the height of accessory buildings to 4.6 metres, with additional provisions to allow for higher agricultural buidings.

The comments below focus on accessory buildings for residential properties since that is the most applicable scenario on South Pender Island and the related impacts to the community. Environmental impacts are also an important consideration with the scale of any development including the amount of land and habitat disturbance, impacts to the local hydrological cycles, the amount of resource consumption, and both the embedded and ongoing energy consumption. Although these environmental impacts are considered with development applications, they are not further identified in the summary below.

Why regulate height?
The height of buildings and structures can be a concern for adjacent properties by:

- Loss of privacy, particularly if the accessory building has a second storey with increased views into neighbouring properties.
- Blocking sunlight.
- Altering local air flow and wind patterns.
- Increased light pollution between properties.
- Creating an imbalance in scale between adjacent properties.

- Creating an imbalance in scale between the principal use (e.g.; dwelling) and the accessory uses.
- The range of uses occurring in an accessory building may also result in increased noise, lighting, and general nuisance related activities.
- Visual impacts of numerous, tall buildings.
- They could detract from the rural character with increased building height and mass.

What are the benefits to permitting more height?

- A taller building could reduce the footprint and related land impacts if a second storey is used to obtain the same floor area.
- Added height may also just result in a larger building mass if the added height does not replace a larger footprint.
- There should be fewer variance requests.
- There would be more design options available for owners.

Why regulate accessory buildings separately from principal buildings?

- Accessory buildings are intended to be subordinate in size and use to the principal use permitted on a property.
- Property owners within a neighbourhood area have expectations of what is generally considered a reasonable level and type of development and what scale and massing of buildings would be permitted.
- Property owners have expectations of what the acceptable land uses and activities are occurring within a neighbourhood area.
- The 'feel' of a residential neighbourhood can be impacted if the size and number of non-residential buildings dominate the residential buildings and use of properties contributing to an imbalance in scale between residential and non-residential use and activities.
- Agricultural buildings are generally regulated differently than accessory buildings due to the nature of agricultural equipment, storage needs, and housing of livestock; as well as the legislative aspect of Agricultural Land Reserve land.
- The BC Building Code also has different requirements based on the use of a building, particularly if the building is intended to be used for habitation. When buildings are constructed for one purpose (e.g.; storage) but end up being used for another (e.g.; sleeping) there are concerns the health and safety requirements are not sufficient and people may be inadvertently put at undue risk.

What is the height restriction in other Local Trust Areas?

- North Pender: limited to 4.6 metres and one-storey
- Saturna: limited to 9 m and 140 m^2
- Mayne: varies by zone, also limited to the number based on lot size, limited to 5 m in smaller residential zones, 9 m in the Rural and Agricultural zones
- Galiano: limited to 5 metres and one-storey and floor area is limited based on lot size.
- Salt Spring: limited to 6 m on lots 1.2 ha or less and 7 m on larger lots
- Gabriola: 7 m for less than 0.4 ha and 9 m on larger lots
- Hornby: 6 m
- Denman: varies by zone, 6m for residential zones and resource zones
- Thetis: 11m for dwellings and accessory buildings
- Gambier: 7m and one-storey

DRAFT

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 111

****

A BYLAW TO AMEND SOUTH PENDER ISLAND LAND USE BYLAW No. 92, 2003

****

WHEREAS the South Pender Island Local Trust Committee is the Local Trust Committee having jurisdiction on and in respect of the South Pender Island Local Trust Area, pursuant to the *Islands Trust Act*;

AND WHEREAS Section 29 of the *Islands Trust Act* gives the South Pender Island Local Trust Committee the same power and authority of a Regional District under Part 26 except sections 932 to 937 and 939 of the *Local Government Act*;

AND WHEREAS the South Pender Island Local Trust Committee wishes to amend Land Use Bylaw No. 92, 2003;

AND WHEREAS the South Pender Island Local Trust Committee has held a Public Hearing;

NOW THEREFORE the South Pender Island Local Trust Committee enacts in open meeting assembled as follows:

A. Bylaw No. 92, cited as "South Pender Island Land Use Bylaw No. 92, 2003" is amended as follows:

1. Section 1.1 (Definitions) is amended for “floor area” by deleting “the outer surface of the exterior walls” and inserting “the interior surface of the exterior walls” such that it reads “floor area” means the sum of the horizontal areas of all storeys in a building, measured to the interior surface of the exterior walls, exclusive of any floor area occupied by a cistern used for the collection of rainwater for domestic use or fire protection, and exclusive of all areas of a floor having a floor and ceiling less than 1.5 metres apart.”

2. Section 1.1 (Definitions) is amended for “pump/utility house” by deleting “an accessory building” and inserting “a building” such that it reads: "pump/utility house" means a building with a maximum floor area of 2.9 square metres (32 square feet) containing only equipment for pumping and processing of water or sewage, or electrical equipment and communication service equipment.

3. Section 1.1 (Definitions) is amended for “structure” by inserting “above or below ground utility lines” such that it reads: "structure" means anything that is constructed or erected and that is fixed to, supported by or sunk into land or water, but excludes septic fields, septic tanks, absorption fields and related appurtenances below ground, above or below ground utility lines, concrete and asphalt paving, or similar surfacing of the land.

4. Section 1.1 (Definitions) is amended by inserting in the correct alphabetical location “”marine geothermal loop” means a renewable geoexchange system (geothermal heat exchange) utilizing the natural occurring temperature of the ocean for the purpose of heating and cooling that:
    a. is a closed-loop system using only freshwater as the circulating heat transfer fluid,
    b. meets or exceeds the Canadian CSA design standards CAN/CSA-448-02, as amended from time to time, and
    c. is designed and installed by a Registered System Designer accredited by the Canadian Geoexchange Coalition, or the International Ground Source Heat Pump Association.”

    Following the definition the following be added: *Information Note: Installation of a marine geothermal loop is also required to obtain the necessary permits or approvals from provincial and federal agencies.*

5. Section 1.1 (Definitions) is amended by inserting in the correct alphabetical location “”storage building” means a non-residential building for the storage of goods and materials for use on the lot which it located and personal effects of the owner of the lot.”

6. Part 3 (General Regulations) is amended by inserting a new Section 3.14 “Attached Dwellings” with the following subsections: “(1) Where a lot is permitted more than one dwelling in Part 5 of this bylaw, two dwellings may be attached subject to each dwelling complying with their respective floor area regulation and there is no interior passageway connecting the two dwellings. For clarity, permitted dwellings include single family dwellings or cottages.
(2) Despite 3.14(1) dwellings may not be attached on land within the Agricultural Land Reserve where second dwellings are only permitted for persons engaged in on-going agricultural activities.

7. Section 3.3 (Siting and Setback Regulations) is amended by inserting a new subsection (6) “Despite the setback provisions in Part 5 of this Bylaw pump/utility houses and solar collectors less than 4.6 metres in height may be sited as close as 3.0 metres to a lot line. ”

   Following the definition the following be added: *Information Note*: *Buildings or structures sited within 4.5 metres of a dedicated road require a permit from the Ministry of Transportation and Infrastructure.*

8. Subsection 3.4(2) (Height Regulations) is amended by inserting “and storage buildings are” and deleting “is” such that is reads: “A building or structure accessory to a single family dwelling and storage buildings are not to exceed 4.6 metres (15 feet) in height.”

9. Subsection 3.4(4) (Height Regulations) is amended by inserting “roof-top mounted” such that it reads: “The height regulations for buildings and structures specified elsewhere in this Bylaw do not apply to radio, telecommunications and television antennas, chimneys, flag poles, lightning poles, fire and hose towers, utility poles, roof-top mounted solar collectors, farm silos and grain bins and water storage tanks.

10. Subsection 3.5(4) (Accessory Uses, Buildings and Structures) is amended by inserting “including storage buildings” such that it reads: “Subject to the density and siting provisions in Part 5, the total floor area of all accessory buildings, including storage buildings, on a lot shall not exceed the following:”

11. Section 3.5 (Accessory Uses, Buildings and Structures) is amended by inserting a new subsection (6) that reads: “Where storage buildings are a permitted use in Part 5 of this Bylaw, they may be constructed prior to a single family dwelling subject to:
    (a) The use is limited to the storage of goods and materials for use on the lot and personal effects of the owner of the lot;
    (b) Only one storage building is permitted on any lot;
    (c) The floor area is not to exceed 25 square metres (269 square feet);
    (d) The storage building is not to be used for human habitation; and
    (e) For certainty, the use of storage buildings as a commercial storage facility is prohibited.

12. Subsection 4.2(4) (Zone Boundaries) is amended by deleting “scaling from Schedule "B" and in that case the zone boundary is the midpoint of the line delineating the zone boundary” and inserting “reference to the digital records stored and maintained in a geographical information system (GIS) at the offices of the Islands Trust” such that it reads: “Where a zone boundary shown on Schedule "B" does not follow a legally defined line and no dimensions are shown by which the boundary could otherwise be located, the location of the boundary must be determined by reference to the digital records stored and maintained in a geographical information system (GIS) at the offices of the Islands Trust”

13. Subsection 5.1(1) (Rural Residential One (RR1) Permitted Uses) is amended by inserting a new Article (f) “Storage buildings subject to Subsection 3.5(6)”

14. Subsection 5.1(3) (Rural Residential One (RR1) Density) is amended by inserting at the end ",which may be attached subject to Section 3.14."

15. Subsection 5.1(4) (Rural Residential One (RR1) Density) is amended by inserting at the end ",of which two of the permitted dwellings may be attached subject to Section 3.14."

16. Section 5.1 (Rural Residential One (RR1)) is amended by inserting under Siting and Size a new subsection (7) "The maximum floor area of a single family dwelling is limited to 375 m^2 (4036ft^2)." and renumbering the subsequent subsections accordingly.

17. Subsection 5.1(6) (Rural Residential One (RR1) Siting and Size) is amended by deleting "or pump/utility house" such that it reads: "The minimum setback for any building or structure, except a fence, shall be:"

18. Subsection 5.2(1) (Rural Residential Two (RR2) Permitted Uses) is amended by inserting a new Article (f) "Storage buildings subject to Subsection 3.5(6)"

19. Subsection 5.2(3) (Rural Residential Two (RR2) Density) is amended by inserting at the end ", which may be attached subject to Section 3.14."

20. Subsection 5.2(4) (Rural Residential Two (RR2) Density) is amended by inserting at the end ",of which two of the permitted dwellings may be attached subject to Section 3.14."

21. Section 5.2 (Rural Residential Two (RR2)) is amended by inserting under Siting and Size a new subsection (7) "The maximum floor area of a single family dwelling is limited to 375 m^2 (4036ft^2)." and renumbering the subsequent subsections accordingly.

22. Subsection 5.2(6) (Rural Residential Two (RR2) Siting and Size) is amended by deleting "or pump/utility house" such that it reads: "The minimum setback for any building or structure, except a fence, shall be:"

23. Subsection 5.3(1) (Rural Residential Three (RR3) Permitted Uses) is amended by inserting a new Article (f) "Storage buildings subject to Subsection 3.5(6)"

24. Subsection 5.3(3) (Rural Residential Three (RR3) Density) is amended by inserting at the end ",which may be attached subject to Section 3.14."

25. Subsection 5.3(4) (Rural Residential Three (RR3) Density) is amended by inserting at the end ", of which two of the permitted dwellings may be attached subject to Section 3.14."

26. Section 5.3 (Rural Residential Three (RR3)) is amended by inserting under Siting and Size a new subsection (7) "The maximum floor area of a single family dwelling is limited to 375 m^2 (4036ft^2)." and renumbering the subsequent subsections accordingly.

27. Subsection 5.3(6) (Rural Residential Three (RR3) Siting and Size) is amended by deleting "or pump/utility house" such that it reads: "The minimum setback for any building or structure, except a fence, shall be:"

28. Subsection 5.5(3) (Community Service (S1) Siting and Size) is amended by deleting "or pump/utility house" such that it reads: "The minimum setback for any building or structure, except a fence, shall be:"

29. Subsection 5.6(3) (Government Service (S2) Siting and Size) is amended by deleting "or pump/utility house" such that it reads: "The minimum setback for any building or structure, except a fence, shall be:"

30. Subsection 5.7(1) (Agriculture (A) Permitted Uses) is amended by inserting a new Article (f) “Storage buildings subject to Subsection 3.5(6)”

31. Section 5.7 (Agriculture (A)) is amended by inserting under Siting and Size a new subsection (7) “The maximum floor area of a single family dwelling is limited to 375 m^2 (4036ft^2).” and renumbering the subsequent subsections accordingly.

32. Subsection 5.7(6) (Agriculture (A) Siting and Size) is amended by deleting “or pump/utility house” such that it reads: “The minimum setback for any building or structure, except a fence, shall be:”

33. Subsection 5.8(1) (Forestry (F) Permitted Uses) is amended by inserting a new Article (g) “Storage buildings subject to Subsection 3.5(6)”

34. Section 5.8 (Forestry (F)) is amended by inserting under Siting and Size a new subsection (7) “The maximum floor area of a single family dwelling is limited to 375 m^2 (4036ft^2).” and renumbering the subsequent subsections accordingly.

35. Subsection 5.8(2) (Forestry (F) Density) is amended by inserting at the end “,which may be attached subject to Section 3.14.”

36. Subsection 5.8(6) (Forestry (F) Siting and Size) is amended by deleting “Section 3.4” and inserting “Subsections 3.4(2) and 3.4(3) such that it reads “Despite Subsection 3.4(3), the maximum height of any building or structure is 9.2 metres (30 ft). “

37. Subsection 5.8(5) (Forestry (F) Siting and Size) is amended by deleting “or pump/utility house” such that it reads: “The minimum setback for any building or structure, except a fence, shall be:”

38. Subsection 5.9(1) (Natural Resource (NR) Permitted Uses) is amended by inserting a new Article (e) “Storage buildings subject to Subsection 3.5(6)”

39. Section 5.9 (Natural Resource (NR)) is amended by inserting under Siting and Size a new subsection (6) “The maximum floor area of a single family dwelling is limited to 375 m^2 (4036ft^2).” and renumbering the subsequent subsections accordingly.

40. Subsection 5.9(3) (Natural Resource (NR) Density) is amended by inserting at the end “,which may be attached subject to Section 3.14.”

41. Subsection 5.9(5) (Natural Resource (NR) Siting and Size) is amended by deleting “or pump/utility house” such that it reads: “The minimum setback for any building or structure, except a fence, shall be:”

42. Subsection 5.10(3) (Passive Recreation Park (P1) Siting and Size) is amended by deleting “or pump/utility house” such that it reads: “The minimum setback for any building or structure, except a fence, shall be:”

43. Subsection 5.11(3) (Heritage Community Park (P2) Siting and Size) is amended by deleting “or pump/utility house” such that it reads: “The minimum setback for any building or structure, except a fence, shall be:”

44. Subsection 5.12(3) (Natural Area Community Park (P3) Siting and Size) is amended by deleting “or pump/utility house” such that it reads: “The minimum setback for any building or structure, except a fence, shall be:”

45. Subsection 5.13(3) (National Park (NP) Siting and Size) is amended by deleting “or pump/utility house” such that it reads: “The minimum setback for any building or structure, except a fence, shall be:”

46. Subsection 5.14(4) (Conservation (RC) Siting and Size) is amended by deleting “or pump/utility house” such that it reads: “The minimum setback for any building or structure, except a fence, shall be:”

47. Subsection 5.15(1) (Marine General (W1) Permitted Uses) is amended by inserting a new Article (c) “Marine geothermal loop”

48. Subsection 5.16(1) (Marine Protection (W2) Permitted Uses) is amended by inserting a new Article (c) “Marine geothermal loop”

49. Subsection 5.17(1) (Marina (W3) Permitted Uses) is amended by inserting a new Article (f) “Marine geothermal loop”

50. Subsection 5.18(1) (Marine Transportation Service (W4) Permitted Uses) is amended by inserting a new Article (d) “Marine geothermal loop”

B. This Bylaw may be cited for all purposes as “South Pender Island Land Use Bylaw No. 92, 2003, Amendment No. 1, 2012.”

C. If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME this	day of	, 201_.
PUBLIC HEARING HELD this	day of	, 201_.
READ A SECOND TIME this	day of	, 201_.
READ A THIRD TIME this	day of	, 201__
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST this	day of	, 201_.
ADOPTED this	day of	, 201_.

SECRETARY **CHAIR**

CAMERON A. THORN

MEMORANDUM

To: South Pender Advisory Planning Commission

From: Cameron Thorn

Date: November 2, 2012

Re: South Pender Land Use Bylaw Review

General Comments & Key Dates:

A Land Use Bylaw is a very important document as it is a blueprint that shapes the built form of the community. Indeed more so than any other bylaw, the land use bylaw (LUB) impacts property owners and residents in a very tangible way. It is therefore critical to get it right, to be thoughtful and to engage the community. The South Pender land use bylaw must support the objective of preserving and protecting the island's unique amenities and environment but it must also respect private property rights and refrain from imposing excessively controlling or restrictive regulations that result in a uniform and banal landscape. As we now review and propose amendments to the land use bylaw we have a duty to think carefully and creatively to ensure the ensuring regulations protect the natural environment while encouraging innovation, good design and aesthetically pleasing buildings.

- June 4, 2011 community information meeting: Concern expressed by Trustees " regarding timing of the OCP and LUB updates… noting the potential for possible confusion should there be a time lag between the changes to the OCP vs. the LUB."
- June 5, 2011 Dennis Perch Letter to LTC: noted "concerns about a virtually complete OCP brought to the community before there is any public consultation".
- October 4, 2011: Trustees amend Top Priorities List and add: Land Use Bylaw Review and Update
- April 10, 2012 LTC Minutes: Former Trustee Scholefield requests more time for a review of the Land Use Bylaw. Planner Pickard stated she was looking for direction on community consultation and a possible community information meeting regarding construction and use of accessory buildings. In response to Wendy Scholefield's comments regarding the timeline and

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

process for the Land Use Bylaw update, it was noted that this process is less extensive and requires less public consultation that the OCP review required.

There are a number of themes to note here as we discuss the proposed amendments to the land use bylaw. One, the time lag between the OCP and a review of the LUB is indeed creating confusion, as there is at least one proposed amendment before us that is purportedly an OCP directive when in fact it is not. Two, in October 2011 our former Trustees made a review of the LUB a top priority and now, more than a year later the public is yet to be meaningfully engaged in a discussion on the bylaw. Three, instead of engaging the public on the *content* of the land use bylaw, we are asked to review bylaw amendments where the i's have been dotted and the t's crossed. Perhaps this approach to bylaw development is based on the perspective expressed at the April 10, 2012 LTC meeting that the LUB process "is less extensive and requires less public consultation that the OCP review." I could not disagree more.

Comments on proposed amendments:

1. Section 1.1 (Definitions) change to method of measuring floor area from outer surface of exterior walls to interior surface of interior walls. OK. Important to ensure a consistent method of measuring area of all buildings other than just straw bale, etc.

2. Section 1.1 (Definitions) change pump/utility house from "an accessory building" to "a building". OK

3. Section 1.1 (Definitions) change /clarification to exempt utility lines from the definition of a "structure". OK

4. Section 1.1 (Definitions) insert "marine geothermal loop" as a permitted use in all marine zones, except the National Park Marine zone. Looking at the solely from the perspective of "the environment" I support this as a permitted use. However, how do we ensure such systems are installed in a manner that does not aesthetically impact the beaches and shoreline? Will adjacent owners or members of the public walking the beach see permanent evidence of a marine geothermal loop?

5. Section 1.1 (Definitions) a proposal to insert "storage building" as a new definition of building with limited and restrictive uses. I strongly disagree with this new definition and the associated limited uses and maximum square footage. I will speak more fully on this topic and its deviation from OCP policy later in the meeting.

6. Part 3 (General Regulations) a new regulation that would allow attached dwellings on lots where two or more dwellings are permitted. Question: is there language in the existing LUB that prohibits the attaching of two buildings? I did not find any restrictions. I assume the intent behind this proposal is to allow walkways covered with a roof structure between two

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

buildings. Would the covered walkway be calculated in site coverage, but not square footage? Is there a limit on the length of the covered walkway between two dwellings?

7. Section 3.3 (Siting and Setback Regulations) the September 10, 2012 staff report on the LUB notes this amendment "reduces setback requirement for pump houses and solar collectors to 3 metres." The way I read Part 5 of the current LUB there is no minimum setback for a fence or a pump/utility house. This amendment actually increases the minimum setback for a pump/utility house to 3.0 metres. That said I appreciate staff's comments about Building Code separation requirements and the effort of this amendment to respond to those code requirements. A 3.0 metre sideyard setback is supportable for the construction of new pump/utility houses. However I believe we could continue with no minimum setback requirements at the front and rear lot lines without running into conflict with the building code spatial separation requirements (between buildings). Often times wells and underground cisterns have been located just inside the front or rear lot lines as this is where the drilling equipment or crane could access. I would therefore recommend there be no minimum front and rear yard setbacks for pump/utility houses. I also disagree with requiring a Ministry of Transportation permit process if the building or structure is within 4.5 metres of a dedicated road. There is no logical basis for such a requirement on quiet, rural South Pender where there are no sidewalks, curbs or streetlight infrastructure.

8. Subsection 3.4(2) (Height Regulations) proposes to treat "storage buildings" the same as accessory structures with respect to height and to limit height to 4.6 metres or 15 feet. Given we are undertaking a broad review of the land use bylaw I am surprised there was no proposal to review the permitted height of accessory buildings. I reviewed the community survey report – and while there were only 28 respondents in total – I note that more than 1/3 of the respondents noted that the height limit on accessory buildings was too restrictive.

   There are a good number of reasons for increasing the height of accessory buildings and I strongly recommend that as part of the community consultation /open house process that we engage architects, designers and builders in a discussion on height. I note the written comments of Steve Wright contained in the September 18, 2012 LTC Agenda package. He notes, "the height of 4.5 metres (15 feet) has long been difficult to comply with under most cases. There are a number of DVP's issued as a result and it does not make for good planning in my opinion. It would be preferable to have an allowable height that is practical for most uses and fits in with the surroundings."

   I find it strange that a "cottage" with a maximum of 603 square feet may be up to 9.2 metres (30 feet) in height and yet an accessory building – which may range in size from 750 square feet up to 4,000 square feet, may only have a roof height of 15 feet! The consequence of this height regulation is that buildings, especially at the larger end of the scale, end up resembling industrial chicken barns or mushroom barns. It has been suggested that if the permitted

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

height is increased – enabling two-storey accessory buildings – that people may start living in their accessory buildings. This is a silly argument. I know lots of folks who live in a two-storey building and I know lots of folks who live in a rancher! The key point is that the occupancy rules on accessory buildings need to be consistent regardless if the building is 1 level at 1,000 square feet or two levels at 500 square feet.

Allowing more height for accessory buildings would enable the same square footage to be achieved on a much smaller footprint. This is an important consideration when one is trying to deal with the dramatic topography of South Pender or minimize the number of trees that need to be removed to construct a structure. I know from discussions with a number of architects that a higher permissible height would provide for more varied design options including steeper roof pitches; by contrast, the current height restrictions result in flat or shallow roof pitches and squat, stocky looking buildings. The referral to the APC on the draft land use bylaw contained a memo regarding accessory buildings and height regulations. Of interest was the comparison between South Pender and other gulf island regarding accessory building height. All other islands with the exception of North Pender permitted higher roof heights than South Pender. Among the noted rationales for regulating height is loss of privacy between neighbouring properties and to ensure tall buildings do not detract from the rural character of the island.

I agree on the need for a defined height limit on accessory buildings but I know we can allow buildings taller than 15 feet without negatively impacting neighbours or detracting from the rural character of the island. As described in our OCP (section 1.2.3) we are "...one of the least populated and least developed of the... major islands." We have a population density of 65.5 residents per square mile. Saltspring Island has a population density of 149 residents per square mile – more than double the population density of South Pender – and still allows for accessory building heights of 19.5 feet on small lots and 23 feet on larger lots. The City of Vancouver has a population density of 3,100 residents per square mile and has successfully implemented laneway housing – effectively a cottage – allowing for a second dwelling on 33-foot wide lots. The maximum roof height is 20 feet and the design guidelines for laneway housing ensure privacy is maintained for neighbouring properties. Given that even the smallest parcels on South Pender are 100 + feet wide I am certain we can allow for taller accessory buildings without impacting our neighbours. One option might be to allow accessory buildings up to 20 feet in height with an increase in the sideyard setback from the current 10 feet to 20 feet.

9. Subsection 3.4(4) (Height Regulations) an amendment to clarify that the height regulations for buildings and structures elsewhere in this bylaw do not apply to antennas, chimneys, flag poles, lighting poles, fire and hose towers, utility poles, roof top mounted solar collectors, farm silos and grain bins and water storage tanks. OK. However, there is a practical conflict

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

between this amendment and its reference to "roof top mounted solar collectors" having no defined height and amendment 7 which states a solar collector less than 4.6 metres in height may be sited as close as 3.0 metres to a lot line. Under Part 5 of the bylaw a building or structure may be 3.1 metres from an interior lot line; if this building was a house it could be 30 feet high. So, under amendment 7 a solar collector may be as close as 3.0 metre to lot line if it is less than 4.6 metres, while at the same time pursuant to amendment 9, a roof-top solar collector could be well above 9.2 metres high so long as the building to which it is attached is 3.1 metres off an interior lot line.

10. Subsection 3.5(4) (Accessory Uses, Buildings and Structures) proposes to insert "including storage buildings" such that it reads: "Subject to the density and siting provisions in Part 5, the total floor area of all accessory buildings, including storage buildings, on a lot shall not exceed the following:" Aside from the fact that I disagree with a new term, "storage building" this proposed amendment is confusing. The current wording of section 3.5(4) and the associated table is very clear; based on the size of one's property an accessory building of varying sizes may be constructed, from 750 square feet on small lots and up to 4,000 square feet on lots over 10 acres. Inserting "storage building" into the sentence suggests that based on lot size a "storage building" could range in size from 750 square feet up to 4,000 square feet. However, that is not the case, as the subsequent proposed amendment explicitly limits the size of all storage buildings to 269 square feet regardless of the size of the lot on which it is located.

11. Subsection 3.5 (Accessory Uses, Buildings and Structures) is amended by inserting a new subsection (6) that reads: "Where storage buildings are a permitted use in Part 5 of this Bylaw, they may be constructed prior to a single-family dwelling subject to:

    a. The use is limited to the storage of goods and materials for use on the lot and personal effects of the owner of the lot;

    b. Only one storage building is permitted on any lot;

    c. The floor area is not to exceed 25 square metres (269 square feet);

    d. The storage building is not to be used for human habitation; and

    e. For certainty, the use of storage buildings as a commercial storage facility is prohibited.

I do not support this proposed amendment for two primary reasons. One, I believe it is an ill-conceived regulation that will provide no benefit to property owners, that it will encourage low quality, temporary type structures and that it will add to the overall costs of construction on a property. Two, although this regulation has been presented as "to implement OCP policy direction to consider non-residential buildings in advance of a

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

dwelling"[1] this proposal bears no resemblance to the OCP policy approved by the community which states: "The Local Trust Committee may consider implementing regulations that would permit outbuildings as a permitted principal use prior to construction of a residential dwelling on Rural Residential designated lands."[2]

How, over the course of the last 1-½ years did the discussion on this topic evolve from construction of "outbuildings" with accessory uses to "storage buildings" with an explicit and narrow definition of use and very limited size? Why, after clear direction from our previous trustees on using the term "outbuildings" and characterizing the uses of an outbuilding as akin to an accessory building, was the term, "storage building" instead inserted into the proposed regulations? The last LTC meeting for Trustees Scholefield and Greer was October 4, 2011 so I find it greatly concerning that at the very first LTC meeting of 2012, with two newly acclaimed trustees just getting their feet on the ground, the discussion is somehow directed such that the established term "outbuilding" was overridden with a new term "storage building" for inclusion in the land use bylaw review and, that it was presented as an OCP directive.

Below are key dates in the discussion of outbuildings and storage buildings:

- January 11, 2011: LTC Meeting Minutes: LTC directs staff to conduct a technical review of the current OCP and provide the Trustees with a draft incorporating corrections. It was also decided the LTC would decide on a list of particular subjects for potential amendments to the OCP.

- February 8, 2011: LTC Meeting: Staff provide Trustees with memo dated January 28, 2011 and a list of possible topics or sections for consideration in the OCP. One of the new topics is Permitted Uses of Land and "Consider policy to permit limited 'utility or storage' buildings as a permitted use prior to residential use". Subsequent to a discussion on the matter it is agreed the item should be included in the OCP review and staff agree to bring an updated list to the March 2011 LTC meeting

- March 15, 2011 LTC Meeting: Staff present Trustees with a first draft of a technical review. Based on Trustee directives at the previous meeting, the text to "...permit limited 'utility or storage' buildings as a permitted use prior to residential use" is changed to, "The Local Trust Committee may consider implementing regulations that would permit outbuildings as a permitted principal use prior to construction of a residential

[1] March 16, 2012 Staff Report, page 3

[2] S. Pender OCP, October 28, 2011, 3.1.2(a)(iii)

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

dwelling on Rural Residential designated lands." This is in fact the same exact language on outbuildings as found in the adopted OCP (section 3.1.2(a)(iii)). The minutes of the March 15, 2011 LTC meeting, note among the proposed and approved amendments, "construction of accessory buildings is no longer prohibited prior to construction of a principal building".

- June 4, 2011 LTC Community Information Meeting: OCP Review: Staff outline future regulations in the Land Use Bylaw, including, "Permitting construction of accessory buildings prior to construction of a principal building".

- June 2011: Public Newsletter regarding proposed changes to the OCP and notification of a Public Hearing date. Among the OCP amendments that would require future implementing regulations is: "To allow an outbuilding as a permitted use on residential lands prior to construction of a dwelling. This would allow construction of a building usually permitted as an accessory to a dwelling (e.g. storage shed, pump houses, garage) on a property without requiring the dwelling to be constructed or a building permit for the dwelling to be issued."

- October 6, 2011: C. Thorn correspondence to Trustee and Staff urging that regulations be prepared as soon as possible to give legal effect to section 3.1.2 a) iii regarding outbuildings as a permitted principal use prior to construction of a residential dwelling. Due to the upcoming Municipal and Island Trust elections, my letter could not be considered by the Trustees that had shepherded the OCP through policy development and adoption.

- February 14, 2012: LTC Meeting Minutes: The new Chair Ken Hancock noted the issue has been raised recently on several island and then, staff and trustees discussed (i.) the rare occasion of a storage building on a separate parcel; (ii.) storage building size; (iii.) use of storage building for residential purposes; (iv.) potential conversion of storage buildings to commercial use and, (v.) potential for degradation of the residential nature of neighbourhoods.

- April 10, 2012: LTC Meeting: Staff provide an overview of recommended LUB amendments. As noted in the report, significant amendments include: "permit and regulate storage buildings as a principal use on zones where a residential use is also permitted." A new definition is created, 'storage buildings' means a non-residential building for the storage of goods and materials for use on the lot which it is located and personal effects of the owner of the lot." The report notes this is to "implement OCP policy direction to consider non-residential buildings in advance of a dwelling".

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

Clearly, proceeding with "storage buildings" as a proposed amendment to the land use bylaw is not in keeping with an OCP policy direction. In keeping with the public discussion in 2011, the land use bylaw needs to be amended to use the term "outbuildings", not "storage buildings". It also makes sense to define the permitted uses of an outbuilding to be consistent with the broadly defined uses of an accessory building. An accessory building use permits all of the activities that the OCP states[3] are compatible both in type and scale with rural residential living including home occupations, horticulture, small-scale greenhouse and nursery uses, the keeping of poultry and the sale of produce. If these uses are in fact compatible with residential living, then an outbuilding should be permitted to operate in a manner consistent with an accessory building.

Size of Outbuilding (prior to construction of single-family dwelling):

Clause 11(c) of the storage building amendment would restrict the floor area for a storage building to not exceed 25 square metres or 269 square feet. Notwithstanding that I disagree with the term "storage buildings", consider the practical considerations of a structure of 269 square feet as the maximum size building to store all tools and equipment associated with the property. This size structure is simply too small to contain the a-sundry of tools, equipment and supplies associated with building on a rural property.

Island Trust staff have indicated that in the absence of the restrictive definition of "storage buildings" large buildings could start emerging on rural residential properties and that without the presence of a single-family dwelling on the same property, our rural residential neighbours may become dominated by non-residential buildings thereby changing the feel of the neighbourhood.

With respect, if you stop to consider this scenario it is highly unrealistic. Constructing a building of 1,000 square feet, would conservatively cost $100,000. What is the incentive for property owners to spend such a large sum of money particularly if they have not yet built their single-family dwelling due to a lack of funds? Its not like South Pender has a thriving manufacturing industry that might otherwise demand such spaces. The economic rents achievable on South Pender for this type of building would not justify the cost of construction. Clearly then, there is not a financial incentive for landowners to build this type of building. Could there be an incentive for landowners to build these buildings as a means of low-cost housing? Possibly, but that incentive will disappear if some basic principles are adhered to.

The first principle is that outbuildings – just like accessory buildings - cannot be habitable. The second principle is that any buildings over 100 square feet must require a building permit and be subjected to a full and complete inspection process to ensure quality and safety of the building.

[3] S. Pender OCP, October 28, 2011, 3.1.2(a)(ii)

Constructing an outbuilding/accessory building cannot be seen as a 'shortcut' method to achieving a dwelling space.

At the same time continue to allow the construction of buildings 100 feet or less without requiring a building permit. This provides an avenue for landowners to still achieve basic shelter without incurring approvals, paperwork and the higher costs associated with larger buildings.

Quality and Aesthetics of Buildings:

I know that one goal we all share is that our regulations promote the construction of durable and quality structures that are aesthetically pleasing. I believe that staff had a concern about the aesthetics of outbuildings on un-occupied properties and felt that a small size limit would reduce the size and scale of unattractive buildings. Although not intended by staff, I believe the proposed building size limits would actually result in more unattractive buildings.

Consider the example of a property owner with a lot size between 1 to 5 acres and a permitted accessory building size of 1000 square feet. If the property owner is going to expend funds to build an outbuilding but it can only be 269 square feet, the owner would be inclined to pursue one of three scenarios.

Scenario one, spend the minimum amount of money necessary to build a structure to keep tools, equipment and supplies dry and then, tear the building down once the single-family dwelling was complete in order to construct a larger accessory building. This scenario most likely results in the construction of cheap, unattractive storage buildings.

Scenario two, build an outbuilding of 269 square feet – that will be permanent and not torn down – and subsequent to the construction of a single-family dwelling, build a second outbuilding on the property up to 831 square feet. This scenario suggests the initial structure will be of a higher quality than the building in scenario one but it also results in the establishment of multiple building sites on a property, and the disturbance of a greater area of a property, especially if services are going to be run to both of the outbuildings. The sloping topography on much of South Pender Island also limits the number of probable building site locations, which under this scenario there would be three: 1 single-family dwelling and 2 outbuildings.

Under Scenario three, the property owner would construct a building of 269 square feet but design it so in the future it could be expanded to the permitted accessory building size of 1000 square feet. The final design of the accessory building might include the allowable roof ridge height of 15 feet and a footprint of 25 feet x 40 feet, or smaller if the accessory building had a second floor. Accordingly the property owner would initially build a structure 25 feet x 10'-9" = 268.75 square feet with a roof ridge height of 15 feet. Aside from the unusual dimensions of such a building, phasing the construction from 269 square feet to 1000 square feet would

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

involve additional foundation work, concrete dowelling to marry the two foundations together, the construction and removal of at least one exterior wall and a challenge on the roof design and construction sequence. This scenario creates a multitude of challenges and additional costs on the property owner, although the quality of the building would likely be superior to a building constructed under scenario one.

Significantly, none of the scenarios eliminates the possibility that a property owner is going to build an unattractive building. The best chance of achieving an attractive structure built of quality materials is to allow a property owner - at the outset - to design and build an outbuilding to the accessory building size as permitted under 3.5 (4)(a). Yes, there is the possibility that a property owner might build an unattractive building of 1000 square feet rather than an unattractive building of 269 square feet. Such a property owner is also likely to build an unattractive single-family dwelling. *Consequentially making the construction of a single family dwelling as the trigger point when a structure is permitted to expand from 269 to 1000 square feet in no way increases the probability that an outbuilding is going to be aesthetically pleasing.* My view is that unless South Pender Island was to introduce a development permit system to regulate the form and character of buildings - which I am not proposing – then there is nothing to prevent property owners from constructing unattractive outbuildings and unattractive single-family dwellings.

I believe that the proposed "storage building" amendment and its use and size restrictions will unnecessarily add more complexity and regulations to the Land Use Bylaw, increase costs to property owners, increase administrative and enforcement costs to the Island Trust and the CRD building department and yet do nothing to promote aesthetically pleasing buildings. On the contrary the proposed amendments may actually result in a proliferation of unattractive structures.

12. Subsection 4.2(4) (Zone Boundaries). No comment

13. Subsection 5.1(1)(Rural Residential One (RR1) Permitted Uses)…amend to insert a new Article (f) "Storage Buildings subject to Subsection 3.5(6). I disagree.

14. No comment at this time

15. No comment at this time

16. Section 5.2 (Rural Residential One (RR1)) is amended by inserting under Siting and Size a new subsection (7) "The maximum floor area of a single-family dwelling is limited to 375 square metres (4,036 square feet)". What was the genesis for this amendment? Although I do not want our LUB to promote large single-family dwellings, at face value this amendment is the equivalent of an arbitrary 'down-zoning' of all private property on South Pender. Perhaps, regardless of lot size or site coverage calculations, there should be a maximum size for single-family dwellings, but I disagree with making that maximum 4,036 square feet.

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

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MINUTES OF THE SOUTH PENDER ISLAND ADVISORY PLANNING COMMISSION HELD ON FRIDAY, NOVEMBER 2, 2012, AT 10:15 AM AT THE FIRE HALL, 8961 GOWLLAND POINT ROAD, SOUTH PENDER ISLAND, BC

RECEIVED
ISLANDS TRUST

PRESENT:	Buffy Paterson	Chair
	Cameron Thorn	APC Member
	Ron Henshaw	APC Member
	Liz Montague	Local Trustee
	Kathy Gilbert	Recording Secretary
REGRETS:	Paul Petrie	APC Member
	Jane Perch	APC Member
PUBLIC:	Three (3)	

1. CALL TO ORDER

Advisory Planning Commission (APC) Chair Paterson called the meeting to order at 10:30 am.

She acknowledged the time and effort that has been put forward by each of the APC members in considering this referral. She stated there is a significant amount of material to consider. She advised that initially the members of the APC were concerned about being asked to consider and make recommendations regarding draft amendments to the South Pender Land Use Bylaw (LUB) prior to any community discussion of revisions to the LUB. She brought these concerns to the attention of the Local Trust Committee (LTC) and was informed by the Chair of the LTC that this referral is simply a first step in the process of reviewing the LUB and that there will be public consultation on any amendments to the LUB before they are adopted.

2. APPROVAL OF AGENDA

Chair Paterson requested renumbering of the agenda to itemize the referrals from the South Pender Island Local Trust Committee (SPI LTC) under Item 4 of the agenda (see below.)

The agenda, as amended, was approved by consensus.

3. APPROVAL OF MINUTES

Prior to consideration of the June 1, 2012 minutes, comments received via email regarding the June 1, 2012 minutes from APC member Jane Perch were presented by Chair Paterson. Comments from APC member Jane Perch are appended to and form part of these minutes.

An email submission from APC Member Paul Petrie supported adoption of the June 1, 2012 minutes. (Two (2) email submissions from APC member Paul Petrie are appended to and form part of these minutes.)

It was Moved and Seconded that the minutes of the South Pender Island Advisory Planning Commission Meeting of June 1, 2012 be approved.

CARRIED

4. REVIEW AND DISCUSS SOUTH PENDER ISLAND LOCAL TRUSTEE REFERRAL

Prior to opening discussions on the referrals, Chair Paterson advised those present that the APC is an advisory body to the LTC; that while public input forms part of the meeting, the APC does not conduct formal hearings; that the APC's recommendations are non-binding to the LTC; and that the APC does not have to reach a consensus on their recommendations.

Chair Paterson also noted that email submissions were received from, and would be referred to during the meeting, from APC members Paul Petrie, Jane Perch and Cameron Thorn. All submissions from the APC members are attached to and form part of these minutes.

Note – Draft amending Bylaw 111 and supporting staff reports are also appended to these minutes for information.

4.1 Resolution SP-LTC-50-12

"It was Moved and Seconded that the South Pender Island Local Trust Committee direct staff to refer draft Bylaw No. 111 cited as South Pender Island Land Use Bylaw No. 92, 2003, Amendment No. 1, 2012 to the Advisory Planning Commission."

4.2 Resolution SP-LTC-51-12

"It was Moved and Seconded that the South Pender Island Local Trust Committee direct staff to provide a brief report summarizing accessory height issues and that the report be forwarded to the Advisory Planning Commission and November 13, 2012 Local Trust Committee meeting."

Both resolutions were considered concurrently during discussions at the APC meeting.

Chair Paterson noted that there were eight (8) significant amendments identified in Planner Andrea Pickard's September 21, 2012 staff report.

Measuring total floor area from the inside of walls, instead of the outside of walls

APC members generally agreed that this change lent support to environmentally-friendly construction styles allowing for greater wall thickness (eg – straw bale, cob construction.)

Ocean-based geoexchange systems in marine zones

APC member comments included a query about the need for such a regulation, but primarily focused on concern that geoexchange systems may be disruptive and damaging to the foreshore and sensitive ecosystems, both visually and environmentally. It was noted that geoexchange system technology is rapidly evolving and there may be opportunities for public education on the use of alternatives to ocean-based systems, such as ground-based systems.

Establish a setback for pump / utility houses – 3.0 m from property lines to coincide with Building Bylaw

APC members discussed:

- concern with respect to creating non-conforming siting situations for existing pump / utility structures;
- that such structures can be integrated into features such as fences along property lines, thus reducing overall building footprint and improving aesthetics on a site;
- whether there was a need for regulation within the Land Use Bylaw (LUB,) given the other government body requirements.

In general, APC members present did not support the amendment.

Reduce setback for ground level solar collectors less than 4.6 metres high to 3.0 metres from property lines

APC members discussed different circumstances where a solar collector could be mounted on a flagpole, thus not requiring a setback vs rooftop-mounted solar collectors, vs a free standing solar collector.

It was suggested that solar collectors may require a special section in the LUB.

Height restrictions - accessory buildings

APC members and members of the public noted the varying height restrictions for accessory buildings contained in the LUB.

It was noted that there is a need for flexibility, given the terrain / topography on South Pender.

Comments also included:

- support for an increase in accessory building height in order to accommodate living facilities above an accessory building, which provides for affordable housing and reducing the building footprint;
- a desire for a "made-on-South-Pender" regulation;
- the need to respect the impact on neighbouring property owners;

- that there have been several approved requests for an increase in height, suggesting a need to increase maximum height in the LUB.

Discussion also took place on the LUB review process and the need to engage the public as to terminology, principles and process. A suggestion was made to conduct focus group sessions on various issues in the LUB. Comment was made that this was not an endorsement of the LUB review, and there needs to be an overall review not influenced by the Islands Trust.

Allow construction of a storage building prior to a dwelling

APC members questioned the change in nomenclature from the term "out-building," as identified in the request to review this provision per the request from Trustees, to "storage building." Also of concern was the small size proposed for storage buildings, if allowed to be constructed prior to a dwelling on a property, noting that it might not be possible to store all required building materials, tools and perhaps a boat in the size (25 sq metres; 269 sq feet) as proposed in the bylaw amendment. APC members also noted possible building quality issues, given the small size proposed and potential tendency to use inferior building materials on such a small structure; and the resultant difficulty of integrating a small, poor quality building into future buildings.

Allow for attached dwellings where more than one is allowed

APC members present requested further information on this item.

Implement a maximum dwelling size – 375 sq metres (4037 sq feet)

APC members and the public discussed the merits of maintaining a smaller building footprint, keeping resource use lower with smaller buildings, the impact on neighbouring property owners and the possibility of the flexibility to consult with neighbours. However, it was also noted that the likelihood of having a very large home constructed was small. Some discussion about increasing the size limit or not including a size limit followed, with all APC members present not concurring on the merits of a size limit.

APC members did not specifically discuss the item in Planner Pickard's September 21, 2012 memo related to exempting utility lines from setbacks.

5. PUBLIC COMMENT

In addition to comments on the specific agenda items integrated into these minutes, public comments included requests and recommendations for the following:

- issues surrounding docks;
- further flexibility for accessory building size and height;
- a need to look a local conditions in the LUB; that the present provisions are too broad;
- further comment on the merits and downsides of ocean-based geoexchange systems and the need for future investigation of the technical issues and impacts of these systems;

- the need to engage the South Pender community in the LUB review process.

6. RECOMMENDATIONS TO THE LOCAL TRUST COMMITTEE

Chair Paterson noted that members Paul Petrie and Jane Perch were not able to be present, that there were many proposed changes to the LUB, and the APC was not able to reach consensus on all items. APC members present requested community consultation on the LUB amendments.

It was Moved and Seconded that the Advisory Planning Commission recommend to the South Pender Island Local Trust Committee that the Local Trust Committee review the comments, including the written submissions from the Advisory Planning Commission members and comments made by the public on November 2, 2012; but also recommends that the community be engaged in a discussion on the principles and objectives that should be contained in a South Pender Island Land Use Bylaw, rather than the Advisory Planning Commission coming forward with recommendations on the proposed amendments to the Land Use Bylaw.

CARRIED

7. OTHER BUSINESS

None.

8. ADJOURNMENT

It was Moved that the South Pender Island Advisory Planning Commission be adjourned at 1:20 pm.

CARRIED

_____ _____

CHAIR Date Adopted

Hi Buffy,

I regret that I cannot give the referral the full attention that it needs as I have limited time and I do not have the resources that I need while I am away and find it difficult working with several documents on line. I also will not have the benefit of listening to input from my fellow APC members which may influence my opinions with the exception of Paul's comments which I appreciate. However, I do have a few initial comments to share with my fellow APC members at your meeting on November 2nd as follows and ask that these comments be submitted at your meeting.

Before doing so, I would also like to comment on the minutes of our last meeting and ask that that my comments be considered in relation to adoption of the meeting minutes. I have concerns regarding comments made by Zorah Star, our substitute recording secretary that form part of the minutes that are to be adopted at the upcoming meeting. In particular, I do not feel that it is the role of the recording secretary to provide instruction to the APC as to how it conducts its business, nor is it the role of staff. Our instructions come from our two South Pender Trustees. South Pender has always been quite open at meetings and allowed members of the public to comment on issues before the APC and to accept written submissions as well. I find this practice particularly helpful as it gives me (as an APC member) an opportunity to consider ideas and other points of view that I may not have thought of. This also holds true for listening to the comments of my fellow APC members. The more information I have to consider, the better recommendation I can make to our trustees. In the end, all information received, whether verbally at our meeting or by letter, becomes part of the record that is forwarded to our trustees. I would like to ask for clarification on this matter and perhaps have a discussion with our trustees on this matter.

Now to the referral we have been asked to comment on.

I started to go thru the various changes at face value but found myself questioning why some of the changes are being proposed and what is the purpose or need for the change.

Ocean based geothermal systems. I support this technology but I am not really sure why this regulation is being proposed and what it will accomplish and how it will be enforced. I wonder how a property owner would know to look in a land use bylaw for rules regarding heating a home. I would like to know if any other local governments (other than the trust area) have bylaws relating to this. I know that there are existing ocean based installations on South Pender. There was no issue previously in terms of our bylaws not permitting them so I wonder if this even has to be addressed.

Floor area calculation. This is forward thinking and I support it. I am glad to see that the thinking was broadened to include all buildings as that is the only way this change makes sense.

Storage Buildings. I have no idea as to the reasoning behind this change. What would be more practical is to allow construction of pump house/utility buildings and garages prior to a single family dwelling. I am confused as to whether our bylaw allows that. Rather than allowing a storage building as a

"principal use", I think that that a more logical approach would be to change the definition of "building" to allow these uses prior to construction of a dwelling. Storage buildings are not normally considered a principal use and this only muddies the waters. I also wonder how temporary storage buildings (such as storage containers would be considered?
I think that what is being proposed may also have an unintended consequence in relation to home occupations. I would expect that this storage building could be used in relation to a home occupation once a dwelling was constructed but proposed Section 3.5(e) restricts use of storage buildings for commercial storage.

Allow attached dwellings. I do not understand why this is being proposed. I would need more information before I can comment.

Changing the setback for pump/utility houses. I have great concerns with this proposed change as it could make many properties non-conforming. Other utilities that need to be considered are propane tanks as a source of heat for some homes as well as for generators. While staff have mentioned oil heat and stated that these would normally be near the home, this may not be the case for propane tanks which are more prevalent in our area. I think that there may be some requirements related to safety as to how close a large propane tank can be located to a building. Usually these tanks are set on a pad which would be considered a structure so there are a number of issues that need to be further considered here. Solar collectors may also fall into this category.

Limit the size of single family dwellings. How was the magic figure of 375 sq. metres arrived at and what is the reasoning? Considering that in our rural residential zones (which are our smallest lots) the minimum lot size is .4 ha. on the waterfront and .8 ha inland and much larger for forestry and agricultural lots, I do not see the need for such a restriction. To put it in perspective, the size being proposed would cover less than $1/10^{th}$ of a .4 ha lot assuming that the construction is a one story dwelling and less if the dwelling is multiple stories. Considering that the majority of our lots have been developed, I think what is being proposed is reactionary and is perhaps being driven by one large dwelling that was recently constructed on North Pender on a large acreage. In any event, the issue should be foot print rather than dwelling size. This issue came up a number of years ago and was put to rest at that time and I think the same should be done now.

Height Restrictions for Accessory Buildidngs. I can see advantages to increasing the current height restrictions. For example, if a property owner were allowed to build on top of a garage, it may eliminate the need for an accessory building elsewhere on the property and hence reduce the developed footprint of a property. Accessory buildings might also be used as potential locations for solar panels so increased help may be useful for this purpose. I support increasing the height restrictions.

I started to look at the specific wording in the bylaw and in addition to the above comments, I think that there may need to be some clarification in proposed wording.

Section 1.1 (Definitions). I think it would be clearer if this read “storage building means a non-residential building for the storage of goods, materials and personal effects of the owner of the lot.”
I think that a better wording for Item 9 (Subsection 3.4(4) would be “the height regulations for buildings and structures specified in this Bylaw do not apply to telecommunication antennas, ….. This wording would cover radio and television and would also cover other types of communication such as satellite dishes which are not currently specified in this section.

Unfortunately I am not able to provide further input at this time but hope that these initial comments will be considered.

Jane Perch

Buffy and APC colleagues,
I have had an opportunity to review the proposed changes in draft bylaw 111 and would offer the following preliminary comments. I would welcome reviewing comments from other APC members if and when they are available. I will be in Winnipeg on Nov. 2nd and I won't know if i can join the meeting by conference call until after Oct. 30th.

My comments Draft Bylaw 111 key amendments are:

- Floor area would be measured from the interior side of the outside walls rather than the exterior side: the objective is to remove a barrier for owners considering cob, straw bale or low energy building using double walled, R-40 design. ***I agree***

- Allowing ocean-based geoexchange (geothermal) systems in the marine zones, which would be limited to systems using only freshwater as the circulating heat transfer fluid. ***I understand the purpose is to allow geothermal energy systems outright . The definition specifies they only use freshwater as the circulating heat transfer fluid so proposed marine loops that do not use freshwater would require a site-specific rezoning application. I am concerned about disturbance of sensitive areas such as eelgrass beds or other habitat may be a concern. I am also concerned that work required to bury lines immediately upland or in the intertidal area could also result in alteration of existing shorelines or use of materials such as concrete. On-going maintenance and concerns over leaks is also an issue: the systems are complex and require regular inspection and maintenance by qualified professionals. I appreciate that the purpose is to promote efforts to reduce GHG emissions and increase resiliency which can now be achieved by land based heat pumps (we love ours!). The two primary concerns are to ensure that the systems are installed professionally and that any impacts on sensitive shoreline or foreshore ecosystems are addressed. To date CRD Building Inspection has not included these systems in the scope of the Building Bylaw. Changes to staffing and to the legislation for Fisheries and Oceans Canada, that previously reviewed foreshore applications for impacts on habitat, have reduced that agency's role and ability to respond to referrals. <u>For the foregoing reasons I recommend that the LTC require a site-specific rezoning application for all ocean based geoexchange systems.</u>***

- Permit and regulate storage buildings as a principal use in zones where a residential use is also permitted; this would allow one storage building to be legally constructed without a dwelling on the property. ***no comment at this time***

- To change the required setback for pump/utility houses from 0 (currently exempt) to 3.0 metres to coincide with building code requirements. ***No comment at this time***

- Reduce the setback for ground level solar collectors, less than 4.6 metres in height to 3.0 metres. ***No comment at this time***

- Allow attached dwellings on those lots where two or more dwellings are permitted. ***No comment at this time***

- Limit the maximum size of a single family dwelling to 375m_2 (4036ft_2). ***I agree***

- Exempt above or below ground utility lines from the definition of structure, setbacks would then not apply. ***I agree***

Paul Petrie

I vote to approve the minutes as recorded.
I found the comment by the recorder conveying information from the Trust about submitted letters to be most appropriate in the context of the meeting.
Paul

CAMERON A. THORN

MEMORANDUM

To: South Pender Advisory Planning Commission

From: Cameron Thorn

Date: November 2, 2012

Re: South Pender Land Use Bylaw Review

General Comments & Key Dates:

A Land Use Bylaw is a very important document as it is a blueprint that shapes the built form of the community. Indeed more so than any other bylaw, the land use bylaw (LUB) impacts property owners and residents in a very tangible way. It is therefore critical to get it right, to be thoughtful and to engage the community. The South Pender land use bylaw must support the objective of preserving and protecting the island's unique amenities and environment but it must also respect private property rights and refrain from imposing excessively controlling or restrictive regulations that result in a uniform and banal landscape. As we now review and propose amendments to the land use bylaw we have a duty to think carefully and creatively to ensure the ensuring regulations protect the natural environment while encouraging innovation, good design and aesthetically pleasing buildings.

- June 4, 2011 community information meeting: Concern expressed by Trustees " regarding timing of the OCP and LUB updates… noting the potential for possible confusion should there be a time lag between the changes to the OCP vs. the LUB."
- June 5, 2011 Dennis Perch Letter to LTC: noted "concerns about a virtually complete OCP brought to the community before there is any public consultation".
- October 4, 2011: Trustees amend Top Priorities List and add: Land Use Bylaw Review and Update
- April 10, 2012 LTC Minutes: Former Trustee Scholefield requests more time for a review of the Land Use Bylaw. Planner Pickard stated she was looking for direction on community consultation and a possible community information meeting regarding construction and use of accessory buildings. In response to Wendy Scholefield's comments regarding the timeline and

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

process for the Land Use Bylaw update, it was noted that this process is less extensive and requires less public consultation that the OCP review required.

There are a number of themes to note here as we discuss the proposed amendments to the land use bylaw. One, the time lag between the OCP and a review of the LUB is indeed creating confusion, as there is at least one proposed amendment before us that is purportedly an OCP directive when in fact it is not. Two, in October 2011 our former Trustees made a review of the LUB a top priority and now, more than a year later the public is yet to be meaningfully engaged in a discussion on the bylaw. Three, instead of engaging the public on the *content* of the land use bylaw, we are asked to review bylaw amendments where the i's have been dotted and the t's crossed. Perhaps this approach to bylaw development is based on the perspective expressed at the April 10, 2012 LTC meeting that the LUB process "is less extensive and requires less public consultation that the OCP review." I could not disagree more.

Comments on proposed amendments:

1. Section 1.1 (Definitions) change to method of measuring floor area from outer surface of exterior walls to interior surface of interior walls. OK. Important to ensure a consistent method of measuring area of all buildings other than just straw bale, etc.

2. Section 1.1 (Definitions) change pump/utility house from "an accessory building" to "a building". OK

3. Section 1.1 (Definitions) change /clarification to exempt utility lines from the definition of a "structure". OK

4. Section 1.1 (Definitions) insert "marine geothermal loop" as a permitted use in all marine zones, except the National Park Marine zone. Looking at the solely from the perspective of "the environment" I support this as a permitted use. However, how do we ensure such systems are installed in a manner that does not aesthetically impact the beaches and shoreline? Will adjacent owners or members of the public walking the beach see permanent evidence of a marine geothermal loop?

5. Section 1.1 (Definitions) a proposal to insert "storage building" as a new definition of building with limited and restrictive uses. I strongly disagree with this new definition and the associated limited uses and maximum square footage. I will speak more fully on this topic and its deviation from OCP policy later in the meeting.

6. Part 3 (General Regulations) a new regulation that would allow attached dwellings on lots where two or more dwellings are permitted. Question: is there language in the existing LUB that prohibits the attaching of two buildings? I did not find any restrictions. I assume the intent behind this proposal is to allow walkways covered with a roof structure between two

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

buildings. Would the covered walkway be calculated in site coverage, but not square footage? Is there a limit on the length of the covered walkway between two dwellings?

7. Section 3.3 (Siting and Setback Regulations) the September 10, 2012 staff report on the LUB notes this amendment "reduces setback requirement for pump houses and solar collectors to 3 metres." The way I read Part 5 of the current LUB there is no minimum setback for a fence or a pump/utility house. This amendment actually increases the minimum setback for a pump/utility house to 3.0 metres. That said I appreciate staff's comments about Building Code separation requirements and the effort of this amendment to respond to those code requirements. A 3.0 metre sideyard setback is supportable for the construction of new pump/utility houses. However I believe we could continue with no minimum setback requirements at the front and rear lot lines without running into conflict with the building code spatial separation requirements (between buildings). Often times wells and underground cisterns have been located just inside the front or rear lot lines as this is where the drilling equipment or crane could access. I would therefore recommend there be no minimum front and rear yard setbacks for pump/utility houses. I also disagree with requiring a Ministry of Transportation permit process if the building or structure is within 4.5 metres of a dedicated road. There is no logical basis for such a requirement on quiet, rural South Pender where there are no sidewalks, curbs or streetlight infrastructure.

8. Subsection 3.4(2) (Height Regulations) proposes to treat "storage buildings" the same as accessory structures with respect to height and to limit height to 4.6 metres or 15 feet. Given we are undertaking a broad review of the land use bylaw I am surprised there was no proposal to review the permitted height of accessory buildings. I reviewed the community survey report – and while there were only 28 respondents in total – I note that more than 1/3 of the respondents noted that the height limit on accessory buildings was too restrictive.

   There are a good number of reasons for increasing the height of accessory buildings and I strongly recommend that as part of the community consultation /open house process that we engage architects, designers and builders in a discussion on height. I note the written comments of Steve Wright contained in the September 18, 2012 LTC Agenda package. He notes, "the height of 4.5 metres (15 feet) has long been difficult to comply with under most cases. There are a number of DVP's issued as a result and it does not make for good planning in my opinion. It would be preferable to have an allowable height that is practical for most uses and fits in with the surroundings."

   I find it strange that a "cottage" with a maximum of 603 square feet may be up to 9.2 metres (30 feet) in height and yet an accessory building – which may range in size from 750 square feet up to 4,000 square feet, may only have a roof height of 15 feet! The consequence of this height regulation is that buildings, especially at the larger end of the scale, end up resembling industrial chicken barns or mushroom barns. It has been suggested that if the permitted

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

height is increased – enabling two-storey accessory buildings – that people may start living in their accessory buildings. This is a silly argument. I know lots of folks who live in a two-storey building and I know lots of folks who live in a rancher! The key point is that the occupancy rules on accessory buildings need to be consistent regardless if the building is 1 level at 1,000 square feet or two levels at 500 square feet.

Allowing more height for accessory buildings would enable the same square footage to be achieved on a much smaller footprint. This is an important consideration when one is trying to deal with the dramatic topography of South Pender or minimize the number of trees that need to be removed to construct a structure. I know from discussions with a number of architects that a higher permissible height would provide for more varied design options including steeper roof pitches; by contrast, the current height restrictions result in flat or shallow roof pitches and squat, stocky looking buildings. The referral to the APC on the draft land use bylaw contained a memo regarding accessory buildings and height regulations. Of interest was the comparison between South Pender and other gulf island regarding accessory building height. All other islands with the exception of North Pender permitted higher roof heights than South Pender. Among the noted rationales for regulating height is loss of privacy between neighbouring properties and to ensure tall buildings do not detract from the rural character of the island.

I agree on the need for a defined height limit on accessory buildings but I know we can allow buildings taller than 15 feet without negatively impacting neighbours or detracting from the rural character of the island. As described in our OCP (section 1.2.3) we are "…one of the least populated and least developed of the… major islands." We have a population density of 65.5 residents per square mile. Saltspring Island has a population density of 149 residents per square mile – more than double the population density of South Pender – and still allows for accessory building heights of 19.5 feet on small lots and 23 feet on larger lots. The City of Vancouver has a population density of 3,100 residents per square mile and has successfully implemented laneway housing – effectively a cottage – allowing for a second dwelling on 33-foot wide lots. The maximum roof height is 20 feet and the design guidelines for laneway housing ensure privacy is maintained for neighbouring properties. Given that even the smallest parcels on South Pender are 100 + feet wide I am certain we can allow for taller accessory buildings without impacting our neighbours. One option might be to allow accessory buildings up to 20 feet in height with an increase in the sideyard setback from the current 10 feet to 20 feet.

9. Subsection 3.4(4) (Height Regulations) an amendment to clarify that the height regulations for buildings and structures elsewhere in this bylaw do not apply to antennas, chimneys, flag poles, lighting poles, fire and hose towers, utility poles, roof top mounted solar collectors, farm silos and grain bins and water storage tanks. OK. However, there is a practical conflict

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

between this amendment and its reference to "roof top mounted solar collectors" having no defined height and amendment 7 which states a solar collector less than 4.6 metres in height may be sited as close as 3.0 metres to a lot line. Under Part 5 of the bylaw a building or structure may be 3.1 metres from an interior lot line; if this building was a house it could be 30 feet high. So, under amendment 7 a solar collector may be as close as 3.0 metre to lot line if it is less than 4.6 metres, while at the same time pursuant to amendment 9, a roof-top solar collector could be well above 9.2 metres high so long as the building to which it is attached is 3.1 metres off an interior lot line.

10. Subsection 3.5(4) (Accessory Uses, Buildings and Structures) proposes to insert "including storage buildings" such that it reads: "Subject to the density and siting provisions in Part 5, the total floor area of all accessory buildings, including storage buildings, on a lot shall not exceed the following:" Aside from the fact that I disagree with a new term, "storage building" this proposed amendment is confusing. The current wording of section 3.5(4) and the associated table is very clear; based on the size of one's property an accessory building of varying sizes may be constructed, from 750 square feet on small lots and up to 4,000 square feet on lots over 10 acres. Inserting "storage building" into the sentence suggests that based on lot size a "storage building" could range in size from 750 square feet up to 4,000 square feet. However, that is not the case, as the subsequent proposed amendment explicitly limits the size of all storage buildings to 269 square feet regardless of the size of the lot on which it is located.

11. Subsection 3.5 (Accessory Uses, Buildings and Structures) is amended by inserting a new subsection (6) that reads: "Where storage buildings are a permitted use in Part 5 of this Bylaw, they may be constructed prior to a single-family dwelling subject to:

    a. The use is limited to the storage of goods and materials for use on the lot and personal effects of the owner of the lot;

    b. Only one storage building is permitted on any lot;

    c. The floor area is not to exceed 25 square metres (269 square feet);

    d. The storage building is not to be used for human habitation; and

    e. For certainty, the use of storage buildings as a commercial storage facility is prohibited.

I do not support this proposed amendment for two primary reasons. One, I believe it is an ill-conceived regulation that will provide no benefit to property owners, that it will encourage low quality, temporary type structures and that it will add to the overall costs of construction on a property. Two, although this regulation has been presented as "to implement OCP policy direction to consider non-residential buildings in advance of a

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

dwelling"[1] this proposal bears no resemblance to the OCP policy approved by the community which states: "The Local Trust Committee may consider implementing regulations that would permit outbuildings as a permitted principal use prior to construction of a residential dwelling on Rural Residential designated lands."[2]

How, over the course of the last 1-½ years did the discussion on this topic evolve from construction of "outbuildings" with accessory uses to "storage buildings" with an explicit and narrow definition of use and very limited size? Why, after clear direction from our previous trustees on using the term "outbuildings" and characterizing the uses of an outbuilding as akin to an accessory building, was the term, "storage building" instead inserted into the proposed regulations? The last LTC meeting for Trustees Scholefield and Greer was October 4, 2011 so I find it greatly concerning that at the very first LTC meeting of 2012, with two newly acclaimed trustees just getting their feet on the ground, the discussion is somehow directed such that the established term "outbuilding" was overridden with a new term "storage building" for inclusion in the land use bylaw review and, that it was presented as an OCP directive.

Below are key dates in the discussion of outbuildings and storage buildings:

- January 11, 2011: LTC Meeting Minutes: LTC directs staff to conduct a technical review of the current OCP and provide the Trustees with a draft incorporating corrections. It was also decided the LTC would decide on a list of particular subjects for potential amendments to the OCP.

- February 8, 2011: LTC Meeting: Staff provide Trustees with memo dated January 28, 2011 and a list of possible topics or sections for consideration in the OCP. One of the new topics is Permitted Uses of Land and "Consider policy to permit limited 'utility or storage' buildings as a permitted use prior to residential use". Subsequent to a discussion on the matter it is agreed the item should be included in the OCP review and staff agree to bring an updated list to the March 2011 LTC meeting

- March 15, 2011 LTC Meeting: Staff present Trustees with a first draft of a technical review. Based on Trustee directives at the previous meeting, the text to "…permit limited 'utility or storage' buildings as a permitted use prior to residential use" is changed to, "The Local Trust Committee may consider implementing regulations that would permit outbuildings as a permitted principal use prior to construction of a residential

[1] March 16, 2012 Staff Report, page 3

[2] S. Pender OCP, October 28, 2011, 3.1.2(a)(iii)

dwelling on Rural Residential designated lands." This is in fact the same exact language on outbuildings as found in the adopted OCP (section 3.1.2(a)(iii)). The minutes of the March 15, 2011 LTC meeting, note among the proposed and approved amendments, "construction of accessory buildings is no longer prohibited prior to construction of a principal building".

- June 4, 2011 LTC Community Information Meeting: OCP Review: Staff outline future regulations in the Land Use Bylaw, including, "Permitting construction of accessory buildings prior to construction of a principal building".

- June 2011: Public Newsletter regarding proposed changes to the OCP and notification of a Public Hearing date. Among the OCP amendments that would require future implementing regulations is: "To allow an outbuilding as a permitted use on residential lands prior to construction of a dwelling. This would allow construction of a building usually permitted as an accessory to a dwelling (e.g. storage shed, pump houses, garage) on a property without requiring the dwelling to be constructed or a building permit for the dwelling to be issued."

- October 6, 2011: C. Thorn correspondence to Trustee and Staff urging that regulations be prepared as soon as possible to give legal effect to section 3.1.2 a) iii regarding outbuildings as a permitted principal use prior to construction of a residential dwelling. Due to the upcoming Municipal and Island Trust elections, my letter could not be considered by the Trustees that had shepherded the OCP through policy development and adoption.

- February 14, 2012: LTC Meeting Minutes: The new Chair Ken Hancock noted the issue has been raised recently on several island and then, staff and trustees discussed (i.) the rare occasion of a storage building on a separate parcel; (ii.) storage building size; (iii.) use of storage building for residential purposes; (iv.) potential conversion of storage buildings to commercial use and, (v.) potential for degradation of the residential nature of neighbourhoods.

- April 10, 2012: LTC Meeting: Staff provide an overview of recommended LUB amendments. As noted in the report, significant amendments include: "permit and regulate storage buildings as a principal use on zones where a residential use is also permitted." A new definition is created, 'storage buildings' means a non-residential building for the storage of goods and materials for use on the lot which it is located and personal effects of the owner of the lot." The report notes this is to "implement OCP policy direction to consider non-residential buildings in advance of a dwelling".

Clearly, proceeding with "storage buildings" as a proposed amendment to the land use bylaw is not in keeping with an OCP policy direction. In keeping with the public discussion in 2011, the land use bylaw needs to be amended to use the term "outbuildings", not "storage buildings". It also makes sense to define the permitted uses of an outbuilding to be consistent with the broadly defined uses of an accessory building. An accessory building use permits all of the activities that the OCP states[3] are compatible both in type and scale with rural residential living including home occupations, horticulture, small-scale greenhouse and nursery uses, the keeping of poultry and the sale of produce. If these uses are in fact compatible with residential living, then an outbuilding should be permitted to operate in a manner consistent with an accessory building.

Size of Outbuilding (prior to construction of single-family dwelling):

Clause 11(c) of the storage building amendment would restrict the floor area for a storage building to not exceed 25 square metres or 269 square feet. Notwithstanding that I disagree with the term "storage buildings", consider the practical considerations of a structure of 269 square feet as the maximum size building to store all tools and equipment associated with the property. This size structure is simply too small to contain the a-sundry of tools, equipment and supplies associated with building on a rural property.

Island Trust staff have indicated that in the absence of the restrictive definition of "storage buildings" large buildings could start emerging on rural residential properties and that without the presence of a single-family dwelling on the same property, our rural residential neighbours may become dominated by non-residential buildings thereby changing the feel of the neighbourhood.

With respect, if you stop to consider this scenario it is highly unrealistic. Constructing a building of 1,000 square feet, would conservatively cost $100,000. What is the incentive for property owners to spend such a large sum of money particularly if they have not yet built their single-family dwelling due to a lack of funds? Its not like South Pender has a thriving manufacturing industry that might otherwise demand such spaces. The economic rents achievable on South Pender for this type of building would not justify the cost of construction. Clearly then, there is not a financial incentive for landowners to build this type of building. Could there be an incentive for landowners to build these buildings as a means of low-cost housing? Possibly, but that incentive will disappear if some basic principles are adhered to.

The first principle is that outbuildings – just like accessory buildings - cannot be habitable. The second principle is that any buildings over 100 square feet must require a building permit and be subjected to a full and complete inspection process to ensure quality and safety of the building.

[3] S. Pender OCP, October 28, 2011, 3.1.2(a)(ii)

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

Constructing an outbuilding/accessory building cannot be seen as a 'shortcut' method to achieving a dwelling space.

At the same time continue to allow the construction of buildings 100 feet or less without requiring a building permit. This provides an avenue for landowners to still achieve basic shelter without incurring approvals, paperwork and the higher costs associated with larger buildings.

Quality and Aesthetics of Buildings:

I know that one goal we all share is that our regulations promote the construction of durable and quality structures that are aesthetically pleasing. I believe that staff had a concern about the aesthetics of outbuildings on un-occupied properties and felt that a small size limit would reduce the size and scale of unattractive buildings. Although not intended by staff, I believe the proposed building size limits would actually result in more unattractive buildings.

Consider the example of a property owner with a lot size between 1 to 5 acres and a permitted accessory building size of 1000 square feet. If the property owner is going to expend funds to build an outbuilding but it can only be 269 square feet, the owner would be inclined to pursue one of three scenarios.

Scenario one, spend the minimum amount of money necessary to build a structure to keep tools, equipment and supplies dry and then, tear the building down once the single-family dwelling was complete in order to construct a larger accessory building. This scenario most likely results in the construction of cheap, unattractive storage buildings.

Scenario two, build an outbuilding of 269 square feet – that will be permanent and not torn down – and subsequent to the construction of a single-family dwelling, build a second outbuilding on the property up to 831 square feet. This scenario suggests the initial structure will be of a higher quality than the building in scenario one but it also results in the establishment of multiple building sites on a property, and the disturbance of a greater area of a property, especially if services are going to be run to both of the outbuildings. The sloping topography on much of South Pender Island also limits the number of probable building site locations, which under this scenario there would be three: 1 single-family dwelling and 2 outbuildings.

Under Scenario three, the property owner would construct a building of 269 square feet but design it so in the future it could be expanded to the permitted accessory building size of 1000 square feet. The final design of the accessory building might include the allowable roof ridge height of 15 feet and a footprint of 25 feet x 40 feet, or smaller if the accessory building had a second floor. Accordingly the property owner would initially build a structure 25 feet x 10'-9" = 268.75 square feet with a roof ridge height of 15 feet. Aside from the unusual dimensions of such a building, phasing the construction from 269 square feet to 1000 square feet would

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

involve additional foundation work, concrete dowelling to marry the two foundations together, the construction and removal of at least one exterior wall and a challenge on the roof design and construction sequence. This scenario creates a multitude of challenges and additional costs on the property owner, although the quality of the building would likely be superior to a building constructed under scenario one.

Significantly, none of the scenarios eliminates the possibility that a property owner is going to build an unattractive building. The best chance of achieving an attractive structure built of quality materials is to allow a property owner - at the outset - to design and build an outbuilding to the accessory building size as permitted under 3.5 (4)(a). Yes, there is the possibility that a property owner might build an unattractive building of 1000 square feet rather than an unattractive building of 269 square feet. Such a property owner is also likely to build an unattractive single-family dwelling. *Consequentially making the construction of a single family dwelling as the trigger point when a structure is permitted to expand from 269 to 1000 square feet in no way increases the probability that an outbuilding is going to be aesthetically pleasing.* My view is that unless South Pender Island was to introduce a development permit system to regulate the form and character of buildings - which I am not proposing – then there is nothing to prevent property owners from constructing unattractive outbuildings and unattractive single-family dwellings.

I believe that the proposed "storage building" amendment and its use and size restrictions will unnecessarily add more complexity and regulations to the Land Use Bylaw, increase costs to property owners, increase administrative and enforcement costs to the Island Trust and the CRD building department and yet do nothing to promote aesthetically pleasing buildings. On the contrary the proposed amendments may actually result in a proliferation of unattractive structures.

12. Subsection 4.2(4) (Zone Boundaries). No comment

13. Subsection 5.1(1)(Rural Residential One (RR1) Permitted Uses)…amend to insert a new Article (f) "Storage Buildings subject to Subsection 3.5(6). I disagree.

14. No comment at this time

15. No comment at this time

16. Section 5.2 (Rural Residential One (RR1)) is amended by inserting under Siting and Size a new subsection (7) "The maximum floor area of a single-family dwelling is limited to 375 square metres (4,036 square feet)". What was the genesis for this amendment? Although I do not want our LUB to promote large single-family dwellings, at face value this amendment is the equivalent of an arbitrary 'down-zoning' of all private property on South Pender. Perhaps, regardless of lot size or site coverage calculations, there should be a maximum size for single-family dwellings, but I disagree with making that maximum 4,036 square feet.

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

From: Cameron Thorn [mailto:
Sent: Wednesday, November 14, 2012 08:32 PM
To: Kathy Gilbert <
Cc: Ken Hancock
Subject: November 13, 2012 S. Pender LTC Meeting Comments

Hi Kathy,
I would have liked to attend the November 13 South Pender LTC meeting but had other obligations that day back in the City. I have spoken to most folks in attendance at the meeting and understand that the Chair made a comment that I should have recused myself from a November 2, 2012 discussion on aspects of the Land Use Bylaw.

I take offence to such a comment being made about me in a public meeting as there was no basis for me to refrain from participating in a discussion about land use regulations that impact all property owners on South Pender Island. Can you please confirm that such comments will be omitted from the minutes of the November 13, 2012 LTC meeting.

Best Regards,

Cameron Thorn

On Thu, Nov 15, 2012 at 8:31 AM, Ken Hancock <khancock@islandstrust.bc.ca> wrote:
Dear Cameron,
I did not say that should have recused yourself and
I am not sure who "most folks at the meeting" were, there was only one member of the public present for the entire meeting and she is also APC Chair.
Since you had an application and were recently issued a permit (TUP) specifically to provide you with a storage building, similar if not identical to what is proposed in the LUB amendments, there are certainly grounds to examine whether you should have considered recusing yourself from the APC discussion and deliberations.
I will refer the issue to our Corporate Secretary and CAO to see if they can share advice on the matter.
By the way, individual APC members do not have a right to direct the LTC secretary as to what he or she records in the LTC or APC minutes. Please direct your concerns if you have any, to the committee.
Regards,

Ken Hancock
Local Trustee North Pender LTA
Vice Chair, Islands Trust Council
Tel. 250-629-6610

From: Cameron Thorn []
Sent: November 15, 2012 10:57 AM
To: Ken Hancock
Cc: kgilbert; Andrea Pickard; South Pender Island Local Trust Committee; Carmen Thiel; Linda Adams
Subject: Re: November 13, 2012 S. Pender LTC Meeting Comments

Ken,
When I said I have spoken to most folks at the meeting I was referring not just to the APC Chair, but also the two South Pender Trustees. My objective was to get as full a picture as possible of the discussion and deliberations of the meeting.

With respect, I seen no reason to have recused myself from a discussion on the proposed "storage building" regulation for the following reasons:

1. As a member of the APC, my colleagues and I are advisors and provide recommendations, we do not make binding decisions;
2. I submitted a temporary use application in the summer 2012 for an "outbuilding" as envisioned in the adopted OCP. The Staff report happened to charactize the building as a "storage building", although in fact the building design does not in any way resemble what could actually be constructed pursuant to the definition of "storage building" as defined in the proposed LUB amendments. Regardless, my application for a temporary use permit was approved by the LTC on September 18, 2012 well in advance of the November 2, 2012 APC meeting.
3. The proposed land use bylaws have broad application across South Pender Island, it is not as though I was commenting on a regulation or bylaw specific to my property.
4. As a member of the APC it would have been irresponsible for me to refrain from commenting on the proposed storage building amendment to the LUB. One, the term "storage building" and its proposed restrictions were a clear departure from the "outbuilding" provisions in the South Pender OCP and do resemble the characteristics of an outbuilding as described to the community in the summer of 2011. Two, the amendment if adopted would, particularly due to the 25 square meter limitation, encourage low quality, aesthetically unpleasing buildings and ultimately would add to the overall cost of construction on properties. The proposal would also unnecessarily add more complexity and regulations to the Land Use Bylaw. Clearly, I could not have remained silent on this important matter.

Finally, I agree with you that it is not my role to direct the recording secretary as to what he or she records in the LTC or APC minutes. I have also clarified this directly with the recording secretary. Upon reflection I should have simply email you directly regarding my concerns about your comments at the November 13, 2012 LTC meeting

Cameron Thorn

On Fri, Nov 16, 2012 at 9:37 AM, Ken Hancock <khancock@islandstrust.bc.ca> wrote:
Hi Cameron,

As I explained, on behalf of the SPLTC I have referred the matter to staff for advice. To be clear, I did not state that you should have recused yourself. There was a brief discussion about whether the possibility of conflict or bias had been considered by you or the APC Chair.

1. As holder of a TUP, you have an ongoing relationship with the LTC, although the permit has been issued, it has terms and conditions and is not a settled matter as long as the permit is in place.
2. One could certainly argue that the proposed bylaw amendments are germane to the permit. In fact, I understand that you applied for the permit because you chose not to wait until the question of changing the bylaw to permit the use in the LUB was examined by the LTC.
3. Had the APC agreed to have the Island Planner attend the meeting as was offered there would likely have been explanations about outbuildings vs. storage buildings.

The APC is legally a body of the Islands Trust and subject to many of the same considerations under the Community Charter as the LTC is, in spite of the fact that their role is advisory.

I expect that staff are extremely busy with other issues, but in good time we will have a chance to consider how best to bring clarity to the issues at hand. The LTC will be meeting in the new year and once advised by staff, will then be able to consider next steps and share any information with the APC. In the meantime, the LTC members should avoid discussing with each other matters that may be the subject of a future decision outside of a meeting. In the meantime we can look forward to getting advice from those with more experience in these matters.

Regards,

Ken Hancock
Local Trustee, North Pender LTA
Vice Chair, Islands Trust Executive Committee
Email. khancock@islandstrust.bc.ca
Tel. 250-629-6610
Islands Trust Web Page http://www.islandstrust.bc.ca/
North Pender Web Page http://www.islandstrust.bc.ca/ltc/np/

YOUNG ANDERSON
BARRISTERS & SOLICITORS

REPLY TO: VANCOUVER OFFICE

VIA EMAIL: rkojima@islandstrust.bc.ca

November 16, 2012

Robert Kojima
Regional Planning Manager
Islands Trust
200 - 1627 Fort Street
Victoria, BC V8R 1H8

Dear Mr. Kojima:

Re: APC Member Conflict of Interest
Our File No. 00002 -0171

You have requested our opinion on a number of questions that arise in the following context:

- Cameron Thorn was appointed to the South Pender Island APC in April 2012.
- Mr. Thorn holds a temporary use permit for a non-residential accessory building on an otherwise vacant residential parcel, which is not permitted by the applicable land use bylaw. The permit was issued on September 19, 2012 and has a three-year term. The building is under construction.
- The South Pender Island LTC is considering land use bylaw amendments that, *inter alia*, would permit this type of accessory building outright, without a principal residential building being in place on the parcel.
- The LTC has referred the relevant land use bylaw amendments to the APC.
- Mr. Thorn participated in APC discussions on the draft land use bylaw amendments after being issued his temporary use permit, and in fact made a written submission to the APC, largely on the topic of accessory buildings.

Your questions and our responses are set out below.

1. Do the Islands Trust Act provisions concerning conflict of interest extend to APC members?

Section 10 of the Islands Trust Regulation does not make statutory conflict of interest regulations applicable to members of advisory planning commissions; it applies only to members of local trust committees. The situation is identical in municipalities and regional districts.

2. If not, would a common law conflict of interest apply to an APC member?

It has been held that a reasonable apprehension of bias in a matter on which an APC makes recommendations, if proven, would not affect the validity of the decision of a municipal council made in reliance on that recommendation: *Save Richmond Farmland Society v. Richmond (Township)*, [1988] B.C.J. No. 2432 (B.C. Supreme Court). A member of the public would not be able to seek judicial review of a recommendation of an APC under the *Judicial Review Procedure Act*, which is the legal remedy used to ensure procedural fairness in such matters, because the APC does not exercise a "statutory power of decision" in relation to which the Supreme Court performs its judicial review function. It is merely an advisory body. Mr. Thorn has correctly noted this proposition in the first point in his November 15, 2012 e-mail message to Trustee Ken Hancock. However, as noted below, the LTC by enacting Bylaw No. 98 has made the principles of procedural fairness applicable to the APC's meetings, and the right to an unbiased decision-maker (that is, a decision-maker who does not have a personal interest in the matter that is being decided) is one of the basic principles of procedural fairness.

3. Does Mr. Thorn appear to have a conflict, or is there a strong potential for conflict?

It seems clear to us that if the APC were a decision-making body, Mr. Thorn would not be able to rely on a "community of interest" exception to conflict of interest rules in relation to the accessory building issue because he does not have a community of interest with the other owners of vacant parcels in the local trust area who would be affected by the LTC's decision on the accessory building issue. Unlike these other owners, he holds a temporary use permit authorizing such a building notwithstanding the current prohibition on such buildings, and has invested in the construction of such a building which he will eventually have to remove if the land use bylaw amendments are not adopted. In our view this gives him a special interest that would disqualify him from participating in discussion of this particular aspect of the proposed land use regulations if the APC were a decision-making body. Mr. Thorn's third point in his November 15, 2012 e-mail to Trustee Hancock, to the effect that he is not commenting on a regulation or bylaw having specific application to his property, is therefore incorrect. The proposed bylaw affects his property uniquely because his property is subject to the temporary use permit and an accessory building is under construction on his property.

4. If yes, how should the LTC handle the recommendations and advice it has already received from the APC?

Because the LTC's decisions on the land use bylaw amendments cannot (according to the *Save Richmond Farmland Society* case cited above) be contaminated by Mr. Thorn's participation in

APC deliberations, the LTC may properly receive those recommendations and proceed with its consideration of the amendments. The LTC may choose to give little weight to the APC's recommendations with respect to the accessory building issue if it is troubled by the fact that they may be informed by Mr. Thorn's participation and that he has a conflict of interest in the matter.

5. If yes, should we advise Mr. Thorn that he may have a conflict and that he should act accordingly?

If the LTC follows the suggestion set out below, Mr. Thorn will be made aware of the contents of this opinion. Alternatively the LTC may choose to address the matter with Mr. Thorn directly to ensure that his participation in the accessory buildings matter does not continue. Because the question of conflict of interest has been raised and Mr. Thorn appears to believe that his participation was proper, one way or another we think it important that he be informed that his opinion is incorrect.

6. Any other advice?

It seems to us that the LTC has an interest in ensuring the integrity of APC proceedings and recommendations in relation to conflicts of interest on the part of individual APC members. For example, APC recommendations on a development permit application would not likely be perceived to be fair if an APC member who prepared the DP application on behalf of a developer client, actively participated in the APC's deliberations on the merits of the DP application. It's common practice around the province for APC members to stand aside in such circumstances. Many APC bylaws set out procedural rules in relation to conflicts of interest, usually reflecting the rules in the *Community Charter* that apply to elected officials. Such rules, if they applied to the South Pender Island APC, would in our view have disentitled Mr. Thorn from participating in the APC's deliberations on the accessory buildings issue and from making a submission to the APC on the matter. (The *Community Charter* rules would have preserved any right that Mr. Thorn might have as a member of the public to be heard by the APC in respect of the accessory buildings matter generally, by permitting him to make representations to the APC through an agent such as his spouse. If there is no opportunity provided to members of the public generally to make representations to the APC on matters that it has under consideration, then in our view it would simply be inappropriate for Mr. Thorn, as the holder of this temporary use permit and owner of an accessory building currently under construction, to attempt directly or indirectly to influence the APC's recommendations to the local trust committee on the matter.) Nothing in this opinion should be interpreted as affecting Mr. Thorn's right as a member of the public to make representations directly to the Local Trust Committee, including at a public hearing on the land use bylaw amendments, regarding the proposed accessory building amendments.

We note that the South Pender Island Local Trust Committee APC Bylaw No. 98 contains the following (s. 3(b)(1)(ii)):

> The Chairperson is to ... ensure proper conduct of all meetings in accordance with the requirements of this Bylaw, the principles of procedural fairness, and in accordance with the requirements of the Islands Trust Act, the Local Government Act, the Community Charter or regulations under those Statutes".

The principles of procedural fairness include the right to an unbiased decision-maker or, in the case of an advisory body, an unbiased recommendation-maker. It would in our view have been proper for the chair of the APC to rule Mr. Thorn's participation in APC deliberations on the accessory buildings matter, including his detailed written submission, out of order on conflict of interest grounds, and to request him to leave the meeting while the APC was deliberating on this topic. That being the case, the LTC might wish to remind the chair of the APC in writing of his or her duties under this section of Bylaw No. 98 (perhaps providing a copy of this opinion letter for reference), and to provide a copy of that correspondence to other APC members as well. The LTC might also wish to consider amending Bylaw No. 98 to incorporate simple conflict of interest rules for APC members.

Sincerely,

YOUNG ANDERSON



Bill Buholzer
buholzer@younganderson.ca

BB/mw

cc. Ms. Jas Chonk, Secretary, Trust Area Services, Islands Trust (via email)

From: Robert Kojima
Sent: Friday, November 16, 2012 3:05 PM
To: Ken Hancock; Liz Montague; Mike Jones
Cc: Andrea Pickard; Carmen Thiel
Subject: APC conflict of interest - CONFIDENTIAL

Hi Liz, Mike and Ken,

After discussing the issue of Cameron Thorn's participation in APC deliberations with Carmen, we decided to seek legal advice. Bill Buholzer's opinion is attached (confidential of course). Bill states that Cameron should not participate in discussions of storage buildings as he has a unique personal interest in the outcome (in particular because of his TUP). While the statutory conflict of interest provisions that apply to trustees do not apply to APC's, the APC bylaw does apply the rules of procedural fairness to the APC, and Cameron is not an unbiased decision-maker (one of the principles of procedural fairness). Further, Bill points out that the bylaw directs the Chair to apply the rules of procedural fairness and thus could have ruled Cameron's deliberations out of order and asked him to leave the meeting during those discussions.

Bill says that even with the conflict, the LTC can still consider the APC's advice.

In terms of advising the APC and Cameron, I see a couple of several options:

1. Write to both the Chair and Cameron advising them of the opinion and summarizing our understanding of it. I have drafted a letter to go under Ken's signature (attached) that would do this. It could also go under my signature. It could go as one letter or separate letters. Before sending it, we would need an RWM directing us to proceed and I would forward the draft letter to Bill for comment before finalizing it.
2. Release the legal opinion, to do this would need an RWM requesting the EC to authorize its release, and then a resolution of EC, and like many legal opinions we would probably want to summarize it anyway.
3. Someone talks to Buffy and Cameron, but we would want something on the record anyway. Hopefully, Buffy will also take us up on our offer to meet with her and help with APC procedures.

I suggest you think about it over the weekend; Ken and I are on Galiano Monday, but Andrea has office hours on Pender between 11 and 1 if you wanted to sit down with her and go over the opinion and discuss how you want to proceed (individually of course). We can then draft appropriate RWMs if necessary on Tuesday.

Robert Kojima
Regional Planning Manager
Southern Team
Islands Trust
200-1627 Fort Street
Victoria, BC V8R 1H8
Phone: 250-405-5159
Fax: 250-405-5155

www.islandstrust.bc.ca

Preserving Island communities, culture and environment

On 2012-11-16, at 1:13 PM, Carmen Thiel wrote:

Hello Buffy, this week I received some comments and concerns about procedural matters related to the business of South Pender Island APC meetings, including:

- minutes guidelines and procedures (Islands Trust Council adopted new minute taking guidelines in June of this year which apply to all Trust bodies, including APCs)
- advice/direction on receiving submissions made before or at a meeting and how best to relay them to the South Pender Island Local Trust Committee
- conflict of interest guidelines/process.

Staff want to help support you in the role of Chair and thought it would be good to have a discussion on meeting procedures, decorum and protocols.

Robert Kojima, Andrea Pickard and myself would like to extend an invitation to meet with you, either on South Pender Island or at the Islands Trust office in Victoria, to discuss these matters. Can you get back to me and let me know where and when it would be most convenient for you to meet with us?

We appreciate and value the service of community members and their input and look forward to meeting with you.

Carmen Thiel
Legislative Services Manager
& Corporate Secretary
Islands Trust
200-1627 Fort Street, Victoria, BC V8R 1H8
phone: 250-405-5188 fax: 250-405-5155
cell: 250-480-8252
Email: cthiel@islandstrust.bc.ca
www.islandstrust.bc.ca

Preserving Island communities, culture and environment

Please consider the environment before printing this email

From: Cameron Thorn []
Sent: Friday, November 16, 2012 11:36 PM
To: Ken Hancock
Cc: kgilbert; Andrea Pickard; Carmen Thiel; Linda Adams; buffyonpender
Subject: Re: November 13, 2012 S. Pender LTC Meeting Comments

Ken,
I am glad you have sought clarification as to what constitutes bias or a conflict of interest. In response to your points below I would note:

1. Yes I am a holder of a temporary use permit for a structure. That permit has a duration of 3 years; with the option of extension for another 3 years or until September 18, 2018. You appear to suggest a possible bias on my part because of a 'future' interest (beyond 2018) I may have regarding improvements on my property. The other members of the South Pender APC all own property on the island and I know at least some intend to undertake improvements to their property. One could deduce from your argument that all APC members have some sort of vested interest and therefore should have considered recusing themselves from a discussion on elements of the LUB.

2. Yes, I suppose one could argue that the proposed bylaw amendments are germane to the permit. After all, I required a TUP because the LUB had not (and still has not been) amended to allow 'outbuildings' as an outright use. From the time I purchased the vacant property directly adjacent my existing property in the summer of 2011 I always intended to construct a building that was reflective of LTC discussions, newsletters and the OCP regarding outbuildings. In LTC discussions and newsletters an 'outbuilding' was described as having the characteristics of an accessory building. So, if I have a TUP permit for a structure that is consistent with the intentions of outbuildings/accessory buildings as per LTC consultations with, and approvals from the public (with the exception of a height variance, which I will touch on below) am I in a "conflict" if in my capacity as an APC member I speak out against a LUB amendment that is contrary (or at the very least, a clear departure) from an OCP policy approved by the public?

I could appreciate the perception of a bias if in my APC recommendations I advocated LUB regulations that were a departure from the OCP and the stated intentions of the public, but I do not see that being the case here. To be sure, I did request a height variance of approximately 3.5 feet for my outbuilding from the otherwise permitted accessory building height of 15 feet. Due to siting of the building and topography considerations the building height had no impact on neighbours and there were no objections. Under these circumstances I elected to make a formal DVP application for building height. Staff, and I appreciate their best intentions, returned the DVP application payment back to me on the basis that the height could be accommodated within the TUP and depending upon future LUB amendments a DVP for height may or may not be required in the future. So clearly, while I recommended a reasonable increase to accessory building height - as did other APC members and members of the public - it was due to a broader public interest and an interest in building aesthetics rather than the circumstances of my own property. If there should not ever be a height increase for accessory buildings within the LUB then I would pursue a DVP as per my original intention.

3. I will defer to the APC Chair on your third point. However, and with all respect to our planner, it is quite clear to me what the salient differences are between an 'outbuilding' and the new proposal of a 'storage building'. I do not believe 'storage building' as proposed is a legitimate response to "implement OCP policy direction" regarding "outbuildings" and marshalling staff to 'explain it' does not change the stark differences between the two in terms of use and size.

Regards,

Cameron Thorn

From: Buffy Paterson
Sent: Wednesday, November 21, 2012 5:38 PM
To: Carmen Thiel
Cc: Jane Perch; Paul Petrie; Cameron Thorn; Ron Henshaw
Subject: Re: Procedural Matters Related to South Pender Island Advisory Planning Commission

Carmen,

In response to your email of November 16, 2012 in which you outlined comments and concerns about procedural matters related to the business of the South Pender Island Advisory Planning Commission meetings, I offer the following information.

1. minutes guidelines and procedures (Islands Trust adopted new minute taking guidelines in June of this year which apply to all Trust bodies, including APCs).

The Chair of the South Pender Local Trust Committee provided me with a copy of the Islands Trust Minute Guidelines on June 15, 2012 and I reviewed the policy both at that time and since.

2. advice/direction on receiving submissions made before or at a meeting and how best to relay them to the South Pender Island Local Trust Committee

I refer you to the June 1, 2012 minutes of the South Pender Island Advisory Planning Commission wherein Zorah Starr, acting recoding secretary (and I believe an experienced minute taker) stated, "... that there was an **accepted practice of attaching submissions from APC members to the APC minutes,** but she had been instructed by the Islands Trust that it was not appropriate to include as part of the official APC minutes any submissions from other community members, which should instead be sent directly to the Local Trust Committee."

At the November 2, 2012 South Pender Advisory Planning Commission meeting the members requested the written submissions of three **members** (two of whom were unable to attend the meeting) be attached to and form part of the official minutes of the meeting. As Chair of the South Pender Island Advisory Planning Commission, I attended the November 13, 2012 Local Trust Committee meeting to request that the November 2, 2012 Advisory Planning Commission minutes and attached written submissions from the **members** be posted to the South Pender Island Islands Trust website. I left the Local Trust Committee meeting before this matter was discussed and subsequently learned that Chair Hancock and Planner Pickard stated that the minutes only would be posted to the website and the attached written submissions of **members** of the Advisory Planning Commission would not posted.

I called recording secretary Kathy Gilbert and asked that the attached written submissions of the Advisory Planning Commission **members** be posted to the Islands Trust website.

I subsequently received your email.

I note in South Pender Island Bylaw No. 98 under 7. Notice of Recommendation (d) that "A recommendation of the APC may be in the form of recorded commentary, in the form of minutes

or in the form of a resolution provided that, where requested by any member, all dissenting opinions are also recorded."

The recommendation made by the Advisory Planning Commission to the South Pender Local Trust Committee in the meeting of November 2, 2012 was that, "... the Local Trust Committee review the comments, including the **written submissions from the Advisory Planning Commission members** and comments made by the public on November 2, 2012 ...". The written submissions are recorded commentary and form part of the official minutes of that meeting.

The Advisory Planning Commission is advisory to the Local Trust Committee and recommendations made to the Local Trust Committee are to assist them in decision-making. The Local Trust Committee may accept all or part of any recommendations provided by the Advisory Planning Commission; they may also disregard all or part of any recommendations provided by the Advisory Planning Commission.

I view your offer as an attempt to limit the Advisory Planning Commission -- firstly by trying to control the content of the Advisory Planning Commission meetings making it difficult for an open discussion of the matters at hand, and secondly to ensure that any comments provided by the Advisory Planning Commission are not readily made available to the members of the South Pender Island community.

It is my view that the Advisory Planning Commission is operating in a manner that is entirely appropriate to the role of advisors. If the Local Trust Committee thinks otherwise, it is the responsibility of the two local trustees to advise the Advisory Planning Commission of those concerns. Of course, the Local Trust Committee may also decide not to refer matters to the Advisory Planning Commission if they find the information provided to them inappropriate or not of value to them as they make their decisions.

The real issue here is that the the Advisory Planning Commission has expressed concerns that the South Pender Local Trust Committee is not undertaking a complete review of the Land Use Bylaw, which is now almost ten years old. Past accepted practice on this and other islands has been to follow up on an Official Community Plan review with a complete Land Use Bylaw review and update. Instead, the Advisory Planning Commission received a piecemeal set of proposed amendments that did not comprise a Land Use Bylaw review and update, and which apparently did not come from any consultation with those most affected by the Land Use Bylaw.

3. conflict of interest guidelines/process

I do not need an education in conflict of interest guidelines/process.

I again refer you to the June 1, 2012 minutes of the South Pender Island Advisory Planning Commission wherein I "...asked those persons who had a personal or professional relationship connected with the current applicants (subdivision SP-SUB-2011.1 - Cadez) to make this known when they spoke ...".

In the latest referral, members of the Advisory Planning Commission were asked for comment on amendments to the Land Use Bylaw. **The Land Use Bylaw affects all property owners on South Pender Island.** Providing submissions (whether written or oral, whether in a meeting format or not) on proposed amendments to those bylaws does not constitute a conflict of interest. It is the community speaking about what regulations they believe are suitable for South Pender Island.

Both you and the Chair of the South Pender Island Local Trust Committee have informed me that the input of community members is appreciated and valued. I question those remarks, as it is abundantly clear that the input of community members is neither appreciated nor valued by Islands Trust staff and the Chair of the South Pender Local Trust Committee.

I see no need to meet with staff at this time.

Sincerely,
Buffy Paterson

From: Robert Kojima
Sent: Thursday, November 22, 2012 1:29 PM
To: Ken Hancock; Liz Montague; Mike Jones
Cc: Andrea Pickard; Carmen Thiel; Kathy Jones
Subject: APC conflict of interest letter

Hi,

I've now heard from Ken and Mike that you are in favour of sending the letter to Cameron and Buffy concerning Cameron's APC conflict of interest, so I will have an RWM prepared for the LTC to request that the Chair send the letter. I've also had Bill Buholzer review the draft and he made a few minor wording changes (the latest version is attached). Let me know if you have any questions or concerns, I'm in the office for the rest of the afternoon, but away tomorrow. Andrea will be in the office tomorrow . Thanks.

Robert Kojima
Regional Planning Manager
Southern Team
Islands Trust
200-1627 Fort Street
Victoria, BC V8R 1H8
Phone: 250-405-5159
Fax: 250-405-5155
www.islandstrust.bc.ca

Preserving Island communities, culture and environment

From: Kathy Jones
Sent: November 22, 2012 1:49 PM
To: South Pender Island Local Trust Committee
Cc: Robert Kojima; Andrea Pickard
Subject: SP RWM re APC Conflict of interest

Hello, attached is an RWM re: APC Member Conflict of Interest. Please move and second the motion. Once this has been done I will ask the Chair to direct staff to conduct the vote.

Also attached is the letter referenced in the RWM.

Kathy Jones
Planning Clerk/Deputy Secretary
Islands Trust
200 - 1627 Fort Street
Victoria BC V8R 1H8
Telephone: 250-405-5163
Toll Free: 1-800-663-7867
Preserving Island communities, culture and environment

South Pender Island Local Trust Committee

CALL FOR THE VOTE

FOR A

SECTION 26 RESOLUTION WITHOUT MEETING

It was Moved and Seconded

THAT the South Pender Island Local Trust Committee requests the Chair to send the letter dated November 23, 2012 outlining the legal advice that has been received by the Islands Trust concerning APC conflict of interest to the Cameron Thorn and the APC Chair.

Mike Jones

Ken Hancock

MOVER'S Signature or Electronic Approval

November 22, 2012
Date

SECONDER'S Signature or Electronic Approval

November 22, 2012
Date

(Please sign and fax the CALL FOR VOTE form ATTENTION: Kathy Jones)

THE CHAIRPERSON DIRECTS STAFF TO CONDUCT A VOTE ON THE ABOVE NOTED RESOLUTION

Ken Hancock
CHAIRPERSON'S Signature or Electronic Approval

November 22, 2012
Date

RECORDING STAFF'S Signature (if applicable)

South Pender Island Local Trust Committee

CONDUCTING OF THE VOTE

FOR A

SECTION 26 RESOLUTION WITHOUT MEETING

Staff To Complete

RWM Number: SP-RWM-09-2012

DATE Calling of the Vote Received: November 22, 2012

It was Moved and Seconded

THAT the South Pender Island Local Trust Committee requests the Chair to send the letter dated November 23, 2012 outlining the legal advice that has been received by the Islands Trust concerning APC conflict of interest to the Cameron Thorn and the APC Chair.

DATE all members of the Local Trust Committee informed of motion: November 22, 2012

Please vote on the above motion by completing the ballots below:

[X] IN FAVOUR	[X] IN FAVOUR	[ ] IN FAVOUR
[ ] OPPOSED	[ ] OPPOSED	[ ] OPPOSED
Ken Hancock Signature/Electronic Approval	Mike Jones Signature/Electronic Approval	Signature/Electronic Approval
November 22, 2012 Date	November 22, 2012 Date	Date

RECEIVED BY THE ISLANDS TRUST SECRETARY

SECRETARY'S or DESIGNATE'S Signature

November 22, 2012
Date

LOCAL TRUST COMMITTEE MEMBERS NOTIFIED

KATHY JONES'S Signature

November 22, 2012
Date

RECORDING STAFF'S Signature (if applicable)

200-1627 Fort Street, Victoria, BC V8R 1H8
Telephone 250 405-5151 Fax 250 405-5155
Toll Free via Enquiry BC in Vancouver 660-2421. Elsewhere in BC
1.800.663.7867
Email information@islandstrust.bc.ca
Web www.islandstrust.bc.ca

November 23, 2012 File Number: 3050-01

Buffy Patterson
Chair, South Pender Island Advisory Planning Commission

Cameron Thorn
Member, South Pender Island Advisory Planning Commission

Via email

Dear Buffy Patterson
Cameron Thorn

Re: South Pender Advisory Planning Commission Conflict of Interest

The Islands Trust has obtained legal advice in the matter of a potential conflict of interest in Cameron Thorn participating in APC discussions concerning draft amendments to the Land Use Bylaw. I have reviewed the advice and my understanding of it is as follows.

Mr. Thorn has a conflict of interest. While statutory conflict of interest provisions are not applicable to Advisory Planning Commission members, Advisory Planning Commission Bylaw No. 98 has made the principles of procedural fairness applicable to the APC's meetings. The right to an unbiased decision-maker (or recommendation-maker in this case) who does not have a personal interest is one of the basic principles of procedural fairness. The storage buildings provisions in the proposed Land Use Bylaw would affect Mr. Thorn uniquely because his property is subject to a Temporary Use Permit authorizing such a building. His opinion that his participation was proper is therefore incorrect. Mr. Thorn's participation in APC discussions, or submissions as an APC member, on the issue of storage buildings should not continue. To be clear, Mr. Thorn does have the right to make representations to the LTC on these matters as a member of the public. His conflict of interest arises only in the context of his position on the APC.

Because Bylaw 98 includes a provision (s.3(b)(1)(ii)) stating that the Chair is to ensure proper conduct of all meetings in accordance with the bylaw and the principles of procedural fairness it would have been proper for the Chair to rule Mr.Thorn's participation in deliberations and his submission to the APC on this matter to be out of order on conflict of interest grounds, and to request him to leave the meeting during the relevant deliberations.

I understand that staff have offered to meet with the APC Chair to assist with a review of APC procedures, which I encourage.

Sincerely

Ken Hancock
Chair, South Pender Island Local Trust Committee

pc: South Pender Island Local Trust Committee
South Pender Island Advisory Planning Commission
Andrea Pickard, Island Planner
Robert Kojima, Regional Planning Manager
Carmen Thiel, Legislative Services Manager

CAMERON A. THORN

November 26, 2012

Linda Adams
Chief Administrative Officer
200 – 1627 Fort Street
Victoria, BC V8R 1H8

RE: November 23, 2012 Ken Hancock Letter and Referral to Legal Counsel

Dear Linda,

I am writing to you in response to a letter from Mr. Ken Hancock dated November 23, 2012 and written on Islands Trust letterhead. I am a member of the South Pender Island Advisory Planning Commission and have been participating in a review process of the South Pender Land Use Bylaw pursuant to a referral to the APC by the South Pender LTC.

In his letter, Mr. Hancock states that based on his understanding of legal advice "Mr. Thorn has a conflict of interest". In a subsequent email to our APC Chair, he refers to it as "a clear case of conflict". Mr. Hancock's comments that I have a conflict were sent to me, various Island Trust staff, the South Pender LTC and the South Pender APC.

Particularly when one "Trust Official" states that another "Trust Official" has a conflict of interest, I would expect that all proper process would be followed in arriving at that conclusion. Accordingly, I would expect the Island Trust would ensure all facts were presented to those providing legal advice and that any nuances in the circumstances of the situation would also been taken into account. I would also expect that prior to one "Trust Official" writing on Island Trust letterhead that another "Trust Official" has a conflict, that the official accused of being in a conflict would have been provided an opportunity to provide input into the legal deliberations.

Mr. Hancock's letter was copied to all my colleagues on the South Pender APC. Aside from the puzzlement they expressed over how my particular circumstances would constitute a conflict of interest, the broader concern was the implications for other APC members who provide recommendations on land use bylaws and, are property owners. On small islands such as South Pender it is conceivable that an APC member might also be contemplating improvements on their own property, that would, one way or another be impacted by the LUB. Are such members putting themselves in a conflict? Mr. Hancock's letter has created more uncertainty as to what constitutes a conflict of interest.

As a Trust Official, and a person of good standing in my community, I am deeply concerned by Mr. Hancock's letter and the negative impact on my reputation. As a volunteer member of an APC, trying to represent the will of the community, and provide sound public policy advice I am

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

frustrated by the time and effort I have recently expended to defend myself against email missives from Mr. Hancock.

Mr. Hancock has now taken it to the next level by explicitly claiming on Island Trust letterhead that I have a conflict of interest. I am not at all certain this conclusion is correct. As a result of this letter, and in the performance of my duties as a Trust Official, I require legal counsel. Please let me know to whom at the Islands Trust legal invoices should be sent for processing and payment.

Regards,



Cameron Thorn

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

On 2012-11-26, at 9:44 AM, Linda Adams <ladams@islandstrust.bc.ca> wrote:

> Hello Mr Thorn.
> Thank you for your email. I will look into your concerns and respond to you later this week. Unfortunately i am unable to do so today due to other commitments. Please don't incur any legal expenses in the interim.
>
> Best regards,
>
> Linda Adams MCIP, RPP
> Chief Administrative Officer
> Islands Trust
> Phone: 250.405.5160
> Email: ladams@islandstrust.bc.ca
> www.islandstrust.bc.ca
>
> Sent from my iPhone

200 - 1627 Fort Street, Victoria., BC V8R 1H8
Telephone **(250) 405-5151** Fax (250) 405-5155
Toll Free via Enquiry BC in Vancouver 660-2421. Elsewhere in BC **1.800.663.7867**
Email information@islandstrust.bc.ca
Web www.islandstrust.bc.ca

November 30, 2012 File Number: 3050-01

BY EMAIL: cameron@cameronthorn.com

Cameron Thorn
216 - 2780 Acadia Road
Vancouver, BC V6T 2L3

Dear Mr. Thorn:

Re: Your letter of November 26, 2012

Thank you for your letter of November 26, 2012 in which you express a number of concerns. You have also asked additional questions about conflict of interest matters and indicated that you would like to obtain legal advice at the Islands Trust's expense.

I have now had an opportunity to review a number of items that appear to be related to your concerns, including the following:

Your recent email exchange with Chair Ken Hancock of the South Pender Island Local Trust Committee, regarding the topic of a potential conflict of interest.
The recent letter from Chair Ken Hancock to you and to the Chair of the South Pender Island Advisory Planning Commission, relaying legal advice regarding conflict of interest.
Legal advice received by the Islands Trust in regards to this topic.

Following my review, I would like to clarify a couple of points in response to your letter:

- I note that you are concerned that you have been 'accused' of having a conflict of interest. I think it's important to remember that there is nothing improper about having a conflict of interest, and I don't believe you should view it as an accusation if someone suggests or questions whether you have a conflict. In small communities where people may 'wear several hats' and work hard to contribute to community affairs, conflicts of interest are relatively common. They are often just a sign that someone is an active member of their community. Nevertheless, it is important that community processes, particularly those that surround the development of land use bylaws, are fair and seen to be so. For this reason, if someone acting in an advisory capacity appears to have a conflict of interest or a bias about an aspect of a proposed bylaw (as happens fairly frequently) it is best that they not continue to participate when that aspect is discussed. If they do, their participation can have a negative effect on the credibility of the advisory group and can even affect the integrity of the entire process. Their on-going participation can sometimes undo the work of many others, including their fellow volunteers, elected officials and staff.
- Given that there was some apparent disagreement as to whether or not your participation could lead to such concerns during review of the South Pender Island Local Trust Committee's bylaw, staff sought legal advice. I have confirmed with our legal advisors that they believe the situation was fairly clear cut and they would have contacted you had they required additional information in order to provide advice.

- I understand your concerns that these recent discussions have raised further questions, for you and other APC members, about conflict of interest. Should you have specific questions about conflict of interest, APC members are welcome to refer them to staff, who can seek legal advice when necessary. I also understand that our staff intend to devote additional time to orientation of APC members in the future, and this will include information about how to identify and handle conflict of interest situations. I hope this will be helpful to all concerned.
- You have indicated that you require legal counsel as a result of the letter from Chair Hancock. It is not apparent to me why this would be so. I have confirmed with our legal advisors that there is no legal exposure for you arising from the recent circumstances, or as a result of Chair Hancock's letter. We are not aware of any reasons why you would need further advice in relation to your role on the South Pender APC. While you are welcome to obtain your own legal advice at your own expense, I cannot authorize you to do so at the Islands Trust's expense. If you feel there are new or different circumstances that I may not be aware of, I would be happy to discuss this with you further by telephone, if you would like to do so.
- As you have indicated that you are unhappy with the actions of the Chair of the South Pender Island Local Trust Committee, I can also advise you that you have a right to make an official complaint to the Islands Trust Executive Committee. The process by which such complaints are handled are identified in Trust Council Policy 7.1.ii, available on our website.
- While you do have the right to make an official complaint, I understand that your concerns may be related to other comments I have heard about the working relationships among trustees, staff and APC members on South Pender. I have recently suggested to members of the South Pender Island Local Trust Committee and to our planning staff that it may be most helpful if they convened a meeting with the South Pender Advisory Planning Commission in the new year to discuss how all parties can work together to the greatest benefit of the South Pender community. I am hopeful that such a meeting can take place and believe it could be an effective way to avoid misunderstandings or circumstances such as those that have led to your concerns.

I would be pleased to talk with you further about the contents of this letter. If you would like to do so, you could reach me at 250-405-5160. Please note that I will not be in the office on November 30, nor during the Islands Trust Council's quarterly meeting from December 4-6.

Sincerely,



Linda Adams
Chief Administrative Officer
Islands Trust
ladams@islandstrust.bc.ca
(250) 405-5160

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CLARK WILSON LLP
BC's Law Firm for Business™

Reply Attention of **Peter Kenward**
Direct Tel. 604.891.7710
EMail Address phk@cwilson.com
Our File No. 40268-0001 / CW5893536.1

Clark Wilson LLP
Barristers & Solicitors
Patent & Trade-mark Agents
800-885 W Georgia Street
Vancouver, BC Canada V6C 3H1
Tel. 604.687.5700
Fax 604.687.6314

January 4, 2013

Islands Trust
200 – 1627 Fort Street
Victoria, BC V8R 1H8

Attention: Linda Adams,
Chief Administrative Officer

Dear Sir/Madam:

Re: South Pender Advisory Planning Commission
"Conflict of Interest"

We act for Cameron Thorn.

Mr. Thorn has sought our comments regarding whether he acted in a conflict of interest in the situation described below.

A. Facts

1. APC Minutes

Mr. Thorn is a member of the Advisory Planning Commission ("APC") on South Pender Island.

Mr. Thorn attended the November 2, 2012 meeting of the APC, which considered various draft amendments to the South Pender Land Use Bylaw (LUB).

The Minutes of that meeting state that:

– the APC's consideration was simply a first step prior to public consultation;

– the APC is an advisory body whose recommendations are non-binding, and the APC does not have to achieve consensus;

and indicate that what the APC did was note various issues and make a recommendation of further consultation.

The Minutes state that :

> "Advisory Planning Commission (APC) Chair Paterson called the meeting to order at 10:30 am. She acknowledged the time and effort that has been put forward by each of the APC members in considering this referral. She stated there is a significant amount of material to consider. She advised that initially the members of the APC were concerned about being asked to consider and make

> recommendations regarding draft amendments to the South Pender Land Use Bylaw (LUB) prior to any community discussion of revisions to the LUB. She brought these concerns to the attention of the Local Trust Committee (LTC) and was informed by the Chair of the LTC that *this referral is simply a first step in the process of reviewing the LUB and that there will be public consultation on any amendments to the LUB before they are adopted.*
>
> Prior to opening discussions on the referrals, Chair Paterson advised those present that the APC *is an advisory body* to the LTC; that while public input forms part of the meeting, the APC does not conduct formal hearings; that the APC's *recommendations are non-binding* to the LTC; and that the APC does not have to reach a consensus on their recommendations. ..."

The Minutes then record the discussion on the specific issue as follows:

> "APC members questioned the change in nomenclature from the term "out-building," as identified in the request to review this provision per the request from Trustees, to "storage building." Also of concern was the small size proposed for storage buildings, if allowed to be constructed prior to a dwelling on a property, noting that it might not be possible to store all required building materials, tools and perhaps a boat in the size (25 sq metres; 269 sq feet) as proposed in the bylaw amendment. APC members also noted possible building quality issues, given the small size proposed and potential tendency to use inferior building materials on such a small structure; and the resultant difficulty of integrating a small, poor quality building into future buildings. "

The resolution that resulted was as follows:

> "APC members present *requested community consultation on the LUB amendments*. It was Moved and Seconded that the Advisory Planning Commission recommended to the South Pender Island Local Trust Committee that the Local Trust Committee review the comments, including the written submissions from the Advisory Planning Commission members and comments made by the public on November 2, 2012; but also *recommends that the community be engaged in a discussion on the principles and objectives* that should be contained in a South Pender Island Land Use Bylaw, *rather than the Advisory Planning Commission coming forward with recommendations on the proposed amendments* to the Land Use Bylaw."

2. Follow up discussion

A discussion subsequently arose as to the appropriateness of Mr. Thorn's participation in the above APC discussion.

Liz Montague, the Local Trustee, commented as follows in an e-mail dated November 15, 2012:

> "Cameron's application was approved before the APC meeting. In our small community, *finding individuals to serve on our APC who have not had some history with LUB's under consideration would be next to impossible*.
>
> I too would like some clarification on when it is necessary to recuse oneself. Is it necessary only when an application is under consideration or even after it has been approved?"

3. Letters from the Islands Trust

The discussion apparently lead to the Island Trust obtaining legal advice.

The Islands Trust subsequently sent a letter sent to Mr. Thorn and numerous others on November 23, 2012 which asserted the following:

> "The Islands Trust has obtained legal advice in the matter of a potential conflict of interest in Cameron Thorn *participating on APC discussions concerning draft amendments to the Land Use Bylaw*. I have reviewed the advice and my understanding of it is as follows.
>
> Mr. Thorn has a conflict of interest. *While statutory conflict of interest provisions are not applicable* to Advisory Planning Commission members, Advisory Planning Commission Bylaw No. 98 *has made the principles of procedural fairness applicable* to the APC's meetings. *The right to an unbiased decision-maker (or recommendation-maker in this case)* who does not have a personal interest is one of the basic principles of procedural fairness. The storage buildings provisions in the proposed Land Use Bylaw would affect Mr. Thorn uniquely because his property is subject to a Temporary Use Permit authorizing such a building. His opinion that his participation was proper is therefore incorrect. Mr. Thorn's participation in APC discussions, or submissions as an APC member, on the issue of storage buildings should not continue. To be clear, Mr. Thorn does have the right to make representations to the LTC on these matters as a member of the public. His conflict of interest arises only in the context of his position on the APC.

> Because Bylaw 98 includes a provision (s. 3(b)(1)(ii)) stating that the Chair is to ensure proper conduct of all meetings in accordance with the bylaw and the principles of procedural fairness it would have been proper for the Chair to rule Mr. Thorn's participation in deliberations and his submission to the APC on this matter to be out of order on conflict of inertest grounds, and to request him to leave the meeting during the relevant deliberations."

Mr Thorn objected by way of a letter dated November 26, 2012.

The Islands Trust replied on November 30, 2012. That letter stated that:

– the Island's Trust's counsel concluded *there was no need to hear from Mr. Thorn* because this matter was 'fairly clear cut'; and

– it is not apparent why Mr. Thorn would need legal counsel and they are not aware of any reason why he would need legal advice, over and above that which the Islands Trust obtained.

B. The law

1. Conflict of interest

(a) Who the rules apply to

Sections 100 to 105 of the *Community Charter* (which are in Division 6, Conflict of Interest) establish rules governing Council members.

Section 100 sets out the basic disclosure rules, and who they apply to, as follows:

> "100(1) This section *applies to council members* in relation to
>
> (a) council meetings,
>
> (b) council committee meetings, and
>
> (c) meetings of any other body referred to in section 93 [application of open meeting rules to other bodies]."

Community Charter section 93 (which is in Division 3, Open Meetings) provides:

> 93. In addition to its application to council meetings, *this Division and section 133* also applies to meetings of the following:
>
> (a) council committees;

(b) a municipal commission established under section 143;

(c) a parcel tax roll review panel established under section 204;

(d) a board of variance established under section 899 of the *Local Government Act*;

(e) an advisory body established by a council;

(f) a body that under this or another Act may exercise the powers of a municipality or council;

(g) a body prescribed by regulation.

"This Division" is Division 3, which speaks to 'open meetings'. The conflict rules are under Division 6. Hence section 93 does *not* extend the conflict rules to advisory bodies.

(b) Disclosure requirements and limits on participation

Section 100 carries on as follows:

"(2) If a *council member* attending a meeting considers that he or she is not entitled to participate in the discussion of a matter, or to vote on a question in respect of a matter, because the member has

(a) a direct or indirect pecuniary interest in the matter, or

(b) another interest in the matter that constitutes a conflict of interest,

the member must declare this and state in general terms the reason why the member considers this to be the case.

(c) The limitation as regards interests that are 'in common with others"

Section 104 specifically provides that:

"(1) Sections 100 to 103 do not apply if one or more of the following circumstances applies:

(a) the pecuniary interest of the council member *is a pecuniary interest in common with* electors of the municipality generally;

(b) in the case of a matter that relates to a local service, the pecuniary interest of the council member is in common with other persons who are or would be liable for the local service tax;

(c) the matter relates to remuneration, expenses or benefits payable to one or more council members in relation to their duties as council members;

(d) the pecuniary interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member in relation to the matter;

(e) the pecuniary interest is of a nature prescribed by regulation."

Bill Buholzer's text regarding the *Community Charter* elaborates as follows:

> "The conflict of interest rules do not apply in the case of a pecuniary interest that a council member has in common with electors of the municipality generally (*Community Charter*, s. 104(1)(a)), and an equivalent exception may be applied in relation to common law conflicts. The standard example of this exception is the adoption of the annual property tax bylaw under s. 197 of the *Charter*, a matter in which each municipal councillor who owns real property in the municipality has a direct pecuniary interest. *However, it is not necessary that every elector in the municipality share the interest; the case law indicates that an interest in common with a substantial number of electors will be sufficient to make the exception apply, although the exact number required will vary with the size of the community and the nature of the particular interest involved.*"

The text cites the following case:

> "In *Godfrey v. Bird*, 2005 BCSC 626, the municipality had received legal advice that the community of interest exception would apply only if at least 100 properties were similarly affected by the decision in question, and Councillor Bird subsequently participated in respect of a matter involving fewer than 50 properties. The court noted at paragraph. 97 that "without assuming that less than 100 properties in any municipality will make the boundary between an interest 'in common with the electors of the municipality generally' and an interest which is not 'in common', I am satisfied that the solicitors for the District were correct in concluding that *100* properties would be the appropriate 'boundary' for this District". The district had a population of around *11,000*."

2. Procedural fairness

(a) South Pender Island Local Trust Committee Bylaw No. 98

The bylaw that establishes the jurisdiction of the APC does *not* provide that the conflict rules of the *Community Charter* apply to the members of the APC as if the APC members were Council members.

Rather it simply provides at section 3(b)(1)(ii) that the Chairperson is to:

> "ensure proper conduct of all meetings *in accordance with the* requirements of this Bylaw, the *principles of procedural fairness*, and in accordance with the requirements of the *Islands Trust Act*, the *Local Government Act*, the *Community Charter* or regulations under those Statutes".

As the Islands Trust notes in its letter, the question relative to the bylaw is therefore whether 'principles of procedural fairness' were breached in the present case.

(b) Case law

The decision of the BC Supreme Court in *Save Richmond Farmland Society v. Richmond* (December 2, 1998) dealt with a challenge to an official community plan bylaw that had been passed by Council after having heard advice from, among others, staff, the public at a public hearing, and an Advisory Planning Commission, one member of which was an employee of a party whose lands had had its OCP designation changed in connection with removal from the ALR. The Court proceeded on the basis of an assumption that there was a reasonable apprehension of bias, but then noted that :

– the APC was a mere advisory body; and

– the weight that Council gives to its advice is up to Council, and there was no evidence that its advice was given more weight than anyone else's.

The Court then concluded that:

– *the law respecting judicial review as regards advisory functions in a much different light than adjudicative ones*;

– where Council is acting legislatively on general policy matters, then subject only to compliance with the procedural requirements of the enabling legislation, the rules of natural justice have limited application; and

– apprehended bias in a mere advisory body once removed can have no effect.

C. Application of Law to facts

There are three fundamental problems with how the Islands Trust has dealt with this matter.

1. Advisory capacity

The analysis related to 'procedural fairness' referenced in the Islands Trust November 23, 2012 letter deals with "recommendation maker" as if it is equivalent to "decision maker", and thereby fails to properly account for:

– the fact the APC is simply an *advisory* body that was asked to make general comments as a first step in advance of a public consultation process; and

– the propositions of law established in the *Save Richmond* case;

even leaving aside the fact that all the APC did in this case was recommend further consultation.

2. Interest in common

Per the foregoing, sections 100 to 105 of the *Community Charter* do *not* apply to the APC.

Even if such rules were applicable, however, the analysis would have to take into account the 'in common with a substantial number of others' element.

Our client advises that:

– there are between 240 and 270 RR zoned lots on South Pender Island; and

– according to BC Assessment data, at least 65 of those are vacant, such that the proposed amendment would directly apply.

Hence numerous others have effectively the same interest as Mr. Thorn, (indeed over 1/4 of the residential property owners on the island).

The analysis that was made in the November 23, 2012 Islands Trust letter is equivalent to saying a bylaw affecting the permitted uses of land by every property owner applies 'uniquely' to a particular owner of vacant land because he happens to be considering building at a given point in time.

Any focus on the small building that Mr. Thorn has built would also be unfounded. If anything, as noted by the Local Trustee, that fact supports the proposition that the stakes for Mr. Thorn are *less* than they are for the owners of other vacant properties. The building would also seem to be something that could be continued as an accessory building to the permitted agricultural use, and, having been lawfully built, non-conforming use protection would apply. The building has less than the 1,000 sq. ft. of floor area provided for at section 3.5 of the bylaw, and meets the siting provisions applicable in the RR2 zone.

3. Failure to hear from Mr. Thorn

Finally, there is considerable irony that Mr. Thorn is called out for breaching procedural fairness, in a letter sent to numerous of his peers, by a party who rendered and broadcast that judgment without giving Mr. Thorn an opportunity to be heard.

The opportunity to be heard is a core element of procedural fairness. The proposition that procedural fairness can be dispensed with for matters that are "fairly clear cut" misses the essence of procedural fairness.

D. Conclusion

1. Implications for the Islands Trust

The Islands Trust letter can be expected to negatively impact the willingness of people to sit on an APC, and the ability of the APC to function. The Islands Trust cannot use one test for Mr. Thorn and another for everyone else, and hence no one on any of its advisory bodies could ever know when some kind of obscure distinction might be used against them, with the result that they too will receive a letter saying they have acted in a conflict of interest.

The matter can also be expected to provide fertile ground for those who wish to challenge future Islands Trust decisions based on conflict of interest.

2. Mr. Thorn

The Islands Trust letter also has a reputational aspect for Mr. Thorn that is of significant concern to him.

3. Next steps

A correction and apology, on Islands Trust letterhead, and copied to all signatories and recipients of the November 23, 2012 letter, is in order.

Please advise as to whether that will be forthcoming, or whether we will need to pursue the matter further.

Yours truly,

CLARK WILSON LLP

Per:

Peter Kenward

PHK/cal

200- 1627 Fort Street, Victoria, B.C., BC V8R 1H8
Telephone **(250) 405-5151** Fax (250) 405-5155
Toll Free via Enquiry BC in Vancouver 660-2421. Elsewhere in BC **1.800.663.7867**
Email information@islandstrust.bc.ca
Web www.islandstrust.bc.ca

Attach 1-23

January 16, 2013 File Number: 2220-20–Thorn

Cameron Thorn
216 – 2780 Acadia Road
Vancouver, BC V6T 2L3
By Email: **cameron@cameronthorn.com**

Dear Cameron Thorn:

Re: Letter from Clark Wilson dated January 4, 2013

This is to formally confirm that I am in receipt of a letter from Peter Kenward of Clark Wilson dated January 4, 2013 and outlining a number of concerns regarding the actions of South Pender Island Local Trust Committee Chair Ken Hancock in relation to your role on the South Pender Island Advisory Planning Commission.

In considering the contents of Mr. Kenward`s letter, I would like to address a number of matters as follows:

In a telephone conversation that you and I had yesterday, you indicated that you prefer that the Islands Trust corresponds with you directly in regards to the subjects raised in Mr. Kenward`s letter, rather than with Mr. Kenward. I understand you will be in communication with Mr. Kenward in this regard.

As discussed yesterday, the Islands Trust has a process for handling the types of concerns regarding an elected official that Mr. Kenward`s letter outlines. Our Administrative Fairness Complaint policy (Islands Trust Council's *Policy 7.1.ii – Handling of Administrative Fairness Complaints)* explains the process. It is available on our website at: http://www.islandstrust.bc.ca/tc/pdf/tcpol7-1-iimar092001.pdf

Before proceeding with our process for handling administrative fairness complaints, I would like to confirm that you have no objection to having the concerns raised in Mr. Kenward`s letter made known to affected trustees and staff. To confirm you have no objection, please advise me in writing, either by mail or fax to our Victoria office or by email to ladams@islandstrust.bc.ca

Provided you have no objections, your letter will be forwarded to the *in camera* portion of the next meeting of the Islands Trust Executive Committee on January 23-24. According to our policy, the Executive Committee is involved in handling complaints regarding elected officials.

The role of the Executive Committee is to review activities, and to provide advice and recommendations to trustees, or take other actions within its jurisdiction, if appropriate. The Executive Committee does not have the power to judicially review the conduct of a local trust committee. Please also note that, in accordance with s. E.3.2.iv(4) of our administrative fairness complaint policy, an Executive Committee member who is the subject of a complaint does not

take part in the Executive Committee's discussion or review of the matter, other than during the initial process of collecting information

I understand that you have additional information you would like to provide that is relevant to our understanding of your concerns. Please provide that information at your convenience, so that it can be carefully reviewed during the Executive Committee`s consideration of your complaints.

Depending upon when we receive further information from you, I expect that the Executive Committee will respond to you in writing sometime after its meeting on either February 19, March 5 or March 19.

Our policy on administrative fairness complaints makes note of the role of the Ombudsperson's Office. If you are not satisfied with our response to your complaint, you may wish to contact the Ombudsperson's Office directly to determine if it can assist you.

Sincerely,



Linda Adams
Chief Administrative Officer
Islands Trust Council
ladams@islandstrust.bc.ca
(250) 405-5160

pc: Carmen Thiel, Legislative Services Manager
Bill Buholzer, Young Anderson
Peter Kenward, Clark Wilson

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CAMERON A. THORN

January 18, 2013

Linda Adams
Chief Administrative Officer
Islands Trust Council
200 – 1627 Fort Street
Victoria, BC V8R 1H8

RE: Letter from Islands Trust dated January 16, 2013

I am writing further to your letter of January 16, 2013.

Your letter asserts that Mr. Kenward's letter "outlines a number of concerns regarding the actions of South Pender Island Local Trust Committee Chair Ken Hancock", and proposes to deal with our letter further to a process that has been established as regards concerns "regarding an elected official". It then indicates that this will occur 'in camera", that the committee that will be considering the matter has no power to undertake judicial review etc. .

Mr. Kenward's letter does not outline concerns regarding the actions of any elected official. It at no point even references Mr. Hancock. Rather it responds to two letters the Islands Trust sent to me (dated November 23, 2012 and November 30, 2012) that advise that further to legal advice received by the Islands Trust, I acted in a conflict of interest and contrary to principles of procedural fairness.

Mr. Kenward's letter relates to those conclusions, and sets out very clear reasons why the conclusions were incorrect. It then asks the Islands Trust to correct the record, and apologize.

The appropriate response, in such a situation, is for the authority to review whether its conclusions were correct or not. If it concludes they were in error, it should set the record straight and apologize. If not, it should say so, and set out where Mr. Kenward's letter is in error.

In my discussion with you prior to your sending your January 16, 2013 letter to myself and Mr. Kenward, I objected to the process you were proposing, and in doing so noted that:

- the contents within the exchange of letters from the Islands Trust and Clark Wilson were in fact a legal matter not an administrative fairness issue; and
- you should be referring this matter to your legal counsel.

You responded that:

- you had not yet decided whether to refer this matter to your legal counsel; and
- depending upon the direction coming out of the Executive Committee meeting, the process may take several months to resolve.

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

I then expressed frustration that the Islands Trust was able to act with great speed in sending me its November 23 and 30 letters, but was now going to take a number of months to correct the situation.

Given the foregoing, it is hard to draw any conclusion other than that you are seeking to bury the Islands Trust's erroneous conclusion about me in in-camera processes that focus on a different issue than the legal issue at hand.

I again ask that the Islands Trust take the simple step of:

- reviewing whether its legal conclusions were correct or not, given the points made in Mr. Kenward's letter;
- if it determines that its previous legal conclusion was in error, that it set the record straight and apologize; and
- if it determines that its previous legal conclusion was correct, that it should say so, and set out where Mr. Kenward's letter was in error.

You have asked whether I have any objections to 'the concerns raised" in Mr. Kenward's letter being made known to the affected trustees and staff. My only concern, given the circumstances, is that legal matter at issue might be conveyed in a less than complete fashion. Hence both Mr. Kenward's letter, and this letter, should be provided to both trustees and staff, and I ask that you confirm when that has happened and to whom has been copied.

Regards,



Cameron Thorn

pc: Sheila Malcolmson, Chair, Islands Trust Council
South Pender Island Local Trust Committee
South Pender Island Advisory Planning Commission
Andrea Pickard, Island Planner
Robert Kojima, Regional Planning Manager
Carmen Thiel, Legislative Services Manager
Bill Buholzer, Young Anderson
Peter Kenward, Clark Wilson

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

Islands Trust

200- 1627 Fort Street, Victoria, B.C., BC V8R 1H8
Telephone **(250) 405-5151** Fax (250) 405-5155
Toll Free via Enquiry BC in Vancouver 660-2421. Elsewhere in BC **1.800.663.7867**
Email information@islandstrust.bc.ca
Web www.islandstrust.bc.ca

January 23, 2013 File Number: 2220-20-Thorn

Cameron Thorn
216 - 2780 Acadia Road
Vancouver, BC V6T 2L3

Dear Cameron Thorn:

Re: Your letter of January 18, 2013

Thank you for your letter of January 18, in response to mine of January 16. I have a number of comments in response.

1. While you have indicated that your concerns are legal in nature and not an administrative fairness issue, you and Mr. Kenward have both raised concerns related to administrative fairness – specifically that a proper process was not followed in providing you with legal advice, and that you were not provided an opportunity to give input when legal advice was sought. The Islands Trust Council takes concerns about administrative fairness seriously and has adopted a policy for handling them, which we will continue to follow. The process includes a review of your concerns by the Islands Trust Executive Committee.
2. The purpose of the Executive Committee's review will be to thoroughly consider your concerns and to respond to them on behalf of the Islands Trust. In addition to legal advice, the Executive Committee will consider all correspondence sent by you and Mr. Kenward on the matter, correspondence from Chair Hancock and Islands Trust staff and relevant meeting minutes. As indicated in my letter of January 16, you are invited to provide any additional information you believe the Executive Committee should consider. Because of your concerns in regards to timing, I will recommend that the Executive Committee expedite its review. If you have additional information to provide, please forward it before January 30, for inclusion in the Executive Committee's February 5 meeting agenda.
3. As part of its process for handling your complaint, the Executive Committee would normally receive and consider legal advice regarding Mr. Kenward's letter. In preparation for the Executive Committee's review, I have asked our legal counsel to provide preliminary advice regarding Mr. Kenward's letter.
4. Having now received that advice, I believe it may be helpful to share some observations with you, as follows:
    a. Mr. Kenward's letter does not address the fact that you are uniquely the holder of a temporary use permit for a building that would be rendered unlawful if the South Pender Island Local Trust Committee (SPILTC) does not adopt certain bylaw amendments before the permit expires. Therefore, it is not clear that Mr. Kenward's opinion regarding 'interest in common' contradicts the opinion of Islands Trust legal counsel. As the temporary use permit is the source of conflict of interest in this case, this appears to be a significant issue.
    b. Mr. Kenward's letter does not address your memorandum of November 2, 2012 to the South Pender Island Advisory Planning Commission in regards to the land use bylaws treatment of accessory buildings. It is unclear if this memorandum was included in his consideration.
    c. Mr. Kenward's letter indicates that, after the temporary use permit for your building expires, 'non-conforming use protection' would apply to the building covered by the permit. This is incorrect and is reflected in s. 4 of your permit, which is based upon s. 921(11) of the *Local Government Act:*

> *(11) The owner of land in respect of which a temporary use permit has been issued has the right to put the land to the use described in the permit until*
>
> *(a) the date that the permit expires, or*
>
> *(b) 3 years after the permit was issued, whichever occurs first.*

   d. A more comprehensive legal review of Mr. Kenward's letter would require a review of the materials he considered in forming his opinion. As you had previously indicated that you would provide these materials to us, we will consider the need for further legal review upon receipt of these materials, and any other further information you provide.

5. Trust Council's policy for handling complaints such as yours indicates that they are to be treated in confidence, unless the complainant provides a written waiver of this provision. For this reason, my circulation of our correspondence has been limited to date and the matter will be considered at an *in camera* meeting of the Executive Committee. A confidential copy of this letter is provided to the SPILTC for its information. This is not intended to 'bury' the matter, but to protect your privacy – a topic about which both you and Mr. Kenward have expressed concerns. Once the Executive Committee has considered this matter, it will respond to you in confidence, with copies provided in confidence to the SPILTC, the Chair of the South Pender Island Advisory Planning Commission (SPIAPC) and those members of our staff who work with the SPILTC. You would be free to distribute that letter further, should you wish.
6. After reflecting on this matter further, reviewing your earlier correspondence and attempting to understand your concerns, I have concluded that there may be a relatively small misunderstanding which has now grown considerably. From my current assessment:
   a. Our planning staff are relatively vigilant in regards to any concern that could threaten procedural fairness, as required by the SPIAPC bylaw.
   b. Our planning staff and the Chair of the SPILTC originally questioned whether there could be a conflict of interest (which could threaten procedural fairness) when you provided comments and a lengthy written submission at an SPIAPC meeting. Your comments seemed specific to the way the South Pender Land Use Bylaw addressed accessory buildings such as the one covered by your temporary use permit.
   c. I believe our planning staff and Chair questioned your participation in this matter because they understood you had a building that would become unlawful once your permit expired in three years, unless the SPILTC amended its bylaw first, or decided to extend the permit for a further three years. It therefore appeared that you had a personal interest in the matter when you suggested related bylaw amendments.
   d. Islands Trust legal counsel confirmed a conflict of interest, based upon your personal interest in keeping your building lawful after your temporary permit expired. Otherwise, you would conceivably experience a loss in the use of your property.
   e. If I understand things correctly from your perspective, you have indicated an expectation that your temporary use permit would receive an automatic three-year renewal. Perhaps you were also relying on an understanding similar to that provided by Mr. Kenward -- that your building would be protected as a non-conforming use, even upon expiry of the temporary permit. If this correctly reflects your understanding, then I can also understand how you would feel you had no conflict of interest in this situation.
   f. It seems to me that a difference in understanding about the effect of a temporary use permit may have led to a difference in understanding about conflict of interest.
   g. As mentioned to you previously, our staff's intent has been to ensure that the South Pender Island Local Trust Committee's process for bylaw development is seen as fair.

Legal advice was sought to provide clarity and was forwarded to maintain the fairness of the process. This does not imply a criticism of your integrity.

7. While we will continue to handle your complaint about administrative fairness in accordance with Trust Council's policy, I believe it would be unfortunate if you and the Islands Trust continue to incur legal costs over what may have begun as a relatively minor misunderstanding. If you feel it would be helpful for you to receive information on this topic directly from our legal counsel, I will authorize our legal counsel (Mr. Buholzer) to discuss the matter with you for a specified period of time, at our expense. Mr Buholzer would also require written advice from Mr. Kenward, confirming that he does not object to Mr. Buholzer discussing this aspect of the matter with you. As you likely understand, such advice would remain the property of the Islands Trust and a summary would be provided for our information. Please advise me if you believe such a discussion would be helpful to the resolution on your concerns.

As mentioned in my original letter to you, I am hopeful that this issue can be resolved in a way that minimizes the further expenditure of time or resources, and avoids any loss of good will on all our parts.

Sincerely,



Linda Adams
Chief Administrative Officer
Islands Trust Council
ladams@islandstrust.bc.ca
(250) 405-5160

pc: Islands Trust Executive Committee (confidential - *in camera*)
South Pender Island Local Trust Committee (confidential - *in camera*)
B. Buholzer, Young Anderson

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CAMERON A. THORN

January 25, 2013

Linda Adams
Chief Administrative Officer
Islands Trust Council
200 – 1627 Fort Street
Victoria, BC V8R 1H8

RE: Letter from Islands Trust dated January 23, 2013

I am writing further to your letter of January 23, 2013.

Your letter notes an Administrative Fairness Complaint Process will be undertaken to review whether proper process was followed in the arrival of legal conclusions as conveyed in the Islands Trust November 23, 2012 letter to me and others. While I do not object to the Islands Trust reviewing matters of procedural fairness – including the fact that I was not afforded an opportunity to participate or be heard prior to the Trust disseminating legal pronouncements about me - this must be a separate exercise from the clear obligation on the Islands Trust to review whether its legal conclusions were correct or not, given the points made in Mr. Kenward's letter of January 4, 2013.

I am pleased to note from your letter that you have referred Mr. Kenward's letter to your legal counsel for comment. Based on the 'observations' from your legal counsel, it would appear that in general they acknowledge the findings of Mr. Kenward, but continue to focus on the Temporary Use Permit (T.U.P.) issued to me noting that I am "uniquely the holder of a temporary use permit for a building that would be rendered unlawful if the South Pender Island Local Trust Committee does not adopt certain bylaw amendments before the permit expires. Notably your letter states, "As the temporary use permit is the source of conflict of interest in this case, this appears to be a significant issue."

Your letter states the Islands Trust planning staff and the Chair…understood you had a building that would become unlawful once your permit expired in three years….it therefore appeared you had a personal interest in the matter when you suggested related bylaw amendments." and, "Islands Trust legal counsel confirmed a conflict of interest, based upon your personal interest in keeping your building lawful after your temporary permit expired. Otherwise, you would conceivably experience a loss in the use of your property."

Clearly the basis for the Islands Trust claims of conflict of interest is rooted in the belief that I am exposed to a risk the building may become unlawful once a temporary use permit expires and therefore I had a personal motivation – and a conflict of interest – when I participated in the APC discussion on bylaw amendments relating to accessory and or storage / outbuildings.

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

1. Relevance of the Temporary Use Permit

You should be aware that my comments at the November 2, 2012 APC meeting were made with no concern to a reliance on a T.U.P. as the basis for ensuring my building remains lawful after the T.U.P. expires. If bylaw amendments regarding storage / outbuildings were not ultimately adopted by the Islands Trust and if I had not yet built a single-family dwelling before the T.U.P. expired the building would continue to lawfully exist pursuant to another provision within the existing land use bylaw and I would then use the building in a manner consistent this provision until such time as the single family dwelling was constructed.

The provision within the existing land use bylaw to which I speak relates to a broadly defined agriculture use. Mr. Kenward referenced the same in his letter and which your letter misconstrues under 4.c. Mr. Kenward did not suggest that non-conforming use protection would apply to the building based on the provisions of an expired temporary use permit. Rather, although the *use* of the building "for the purpose of general storage and workshop" as defined in the T.U.P. might expire in three years, the building itself could continue and a new use could apply as per provisions of the existing land use bylaw set out below. The building is lawfully sited and is less than 1000 square feet as per section 3.5 of the land use bylaw. The critical point is that contrary to your legal observations and staff understanding of the land use bylaw, the building can legally remain and be used irrespective of an expired temporary use permit.

Excerpts of Existing Land Use Bylaw No. 92, 2003:

1.1 Definitions
"accessory" in relation to a use, building or structural means incidental, secondary and exclusively devoted to a principle use…
"agriculture" means the use of land for the growing, rearing, harvesting or production of plants, crops, livestock and other farm animals
"principal" in relation to a use, building or structure means the main or primary use, building or structure, as the case may be, conducted or constructed on a lot

5.2 Rural Residential Two (RR2)
Permitted Uses
(1) The following uses are permitted…
(c) Agriculture
(e) Accessory uses, buildings and structures, including, but not limited to…roadside stands for the sale of produce grown on the same lot.

Significantly, the continued lawful existence my building is not predicated on the issuance or renewal of future Temporary Use Permits. On this basis, as Mr. Kenward noted, "the stakes for Mr. Thorn (regarding the outcome of the proposed storage building bylaw) are *less* than they are for the owners of other vacant properties." The corollary to this is that I had no motivation of personal interest during the November 2, 2012 APC consideration of the proposed land use bylaw amendments and therefore, no conflict of interest.

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

Again, as noted by Mr. Kenward, there are at least 65 other vacant properties on South Pender Island that are also affected by the storage building proposal as this proposal would significantly limit what the owners could build on their property. Given I have already obtained a T.U.P and a building permit to construct a building to my desired design intent, and given the building's continued existence is not reliant on a T.U.P. I am actually far less impacted by the storage building proposal than the owners of the 65 properties. Whatever the final provisions of the storage / outbuilding bylaw shall be regarding size and use would have a minor impact on me relative to the impact the bylaw may have on the 65 plus vacant properties on the island. To assert that I am uniquely impacted by the bylaw proposal due to a T.U.P is simply incorrect.

2. Advisory Capacity

Under 4.b. of your letter you state that "Mr. Kenward's letter does not address your memorandum of November 2, 2012 to South Pender Island Advisory Planning Commission in regards to land use bylaws treatment of accessory buildings. It is unclear is this memorandum was included in his consideration." This is a superfluous query. What is relevant here is the following:

a. The APC recommendation at the November 2, 2012 meeting was "that *the community be engaged in a discussion* on the principles and objectives that should be contained in a South Pender Island Land Use Bylaw, *rather than the Advisory Planning Commission coming forward with recommendations on the proposed amendments to the Land Use Bylaw.*"
b. The Islands Trust November 23, 2012 letter treated the 'recommendation maker' as if it equivalent to 'decision maker' and failed to take into account:
    i. That the APC is simply an advisory body that was asked to make general comment as a first step in advance of a public consultation process and,
    ii. The propositions of law established in Save Richmond Farmland Society v. Richmond

3. Procedural Fairness

Your letter raises the issue of procedural fairness and states, "our planning staff are relatively vigilant in regards to any concern that could threaten procedural fairness…" Given this claim, it is highly ironic that the Islands Trust sent a letter to me and numerous of my peers accusing me of a conflict and breaching procedural fairness without first affording me an opportunity to participate or to be heard. The rebuttal explanation by the Trust, per your November 30, 2012 letter, that I was not contacted for input because the "situation was fairly clear cut" is not only wrong, it also violates the essence of procedural fairness. The fact is there was a complete failure by the Islands Trust to ensure procedural fairness and to follow its own policy manual regarding Administrative Fairness Principles, in particular:

3.1 Notice of Proceedings
"Parties whose interests may be affected by a decision or action should be notified in a timely and adequate manner about the decision making process and opportunities to participate in it" and,

3.4 Opportunity to be Heard/to Respond

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

CAMERON A. THORN

"Parties whose interests may be affected by a decision or action should be given a reasonable opportunity to provide written or verbal information in support of their position."

If the principles of procedural fairness had been followed by the Islands Trust, I would have - particularly in my capacity as a "Trust Official" - been given a Notice of Proceedings and An Opportunity to be Heard. If the principles of procedural fairness had been followed by the Islands Trust the time and expense incurred thus far on legal expenses would have been significantly minimized.

Serving as a volunteer with the Island Trust has under the circumstances been a most unpleasant experience.

To recount, I spent hours preparing my comments in preparation for the November 2, 2013 APC meeting, carefully researching all the past LTC meetings/minutes over the past 1½ years as it related to the OCP, outbuildings and the storage building proposal. I spoke with full and part time residents of South Pender and with a recently former Trustee regarding these and other land use bylaw matters and I made every effort to provide comments in the long term interest of South Pender and its built form. For these volunteer efforts I received a letter accusing me of being in a conflict of interest.

Since receiving the accusatory letter I have spent countless further hours trying to defend myself against Islands Trust claims that I was in a conflict of interest. In doing so I have had to retain the services of a municipal law expert to consider and refute the claims of conflict of interest. Mr. Kenward carefully considered the matter and sent you a letter setting out very clearly why the conclusions of the Islands Trust were incorrect. Instead of providing a correction and an apology, the Islands Trust appears doggedly determined to obfuscate and find whatever obscure arguments it can to hold to the notion that I was in a conflict of interest.

It is most unfortunate that the Islands Trust deals with volunteer officials in this way, rather than simply recognizing an obvious error when one has been made, and apologizing. I would ask once again that the Islands Trust provide me a letter of correction and apology on this matter.

Regards,



Cameron Thorn

attachment

pc: Sheila Malcolmson, Chair, Islands Trust Council
Islands Trust Executive Committee
South Pender Island Local Trust Committee
Bill Buholzer, Young Anderson
Peter Kenward, Clark Wilson

216 – 2780 Acadia Road, Vancouver, BC, V6T 2L3
cameron@cameronthorn.com
(604) 317-8174

PART 1 INTERPRETATION

1.1 Definitions

"accessory" in relation to a use, building or structure means incidental, secondary and exclusively devoted to a principal use, building or structure expressly permitted by this Bylaw on the same lot or, if the accessory use, building or structure is located on the common property in a bare land strata plan, on a strata lot in that strata plan.

"agriculture" means the use of land for the growing, rearing, harvesting, or production of plants, crops, livestock and other farm animals.

"anchoring" means the securing of a boat or vessel to the seabed by means of apparatus normally carried on board.

"Approving Officer" means the Approving Officer for South Pender Island appointed pursuant to the *Land Title Act*.

"bed and breakfast" means a home occupation comprising the provision of sleeping accommodation and includes provision of only a morning meal to paying guests.

"building" means a roofed structure, including a mobile home, used or intended to be used for supporting or sheltering any use or occupancy.

"buoy" means a device fixed in place by anchoring to the seafloor and marking a position or for use as moorage.

"church" means a building or structure used for religious worship, which does not provide for overnight accommodation or residential use.

BL 110 "cottage" means an accessory single family dwelling with a floor area of 56 m^2 (603 ft^2) or less.

"dock" means a float that is connected to the shoreline by means of a ramp and is used for a landing or wharfage place for water craft.

"dwelling, single family" means a building used as a residence for a single household and containing sleeping and living areas plus a single set of facilities for food preparation and eating; for this purpose it also includes a mobile home.

"ecological reserve" means an area of land (or water) established as an ecological reserve under *Ecological Reserves Act*.

"farm use" means an occupation or use of land for farm purposes, including farming of land, plants and animals and any other similar activity designated as farm use by the *Provincial Agricultural Land Commission Act* or its regulation and includes a farm operation as defined in the *Farm Practices Protection (Right to Farm) Act*.

"fence" means a structure used as a barrier to separate, prevent escape or intrusion or mark a boundary and includes gate, screen and freestanding wall.

"fitness facility" means an indoor facility equipped and used for physical activities related to fitness, health and well-being.

"mobile home" means a dwelling suitable for year-round occupancy, designed, constructed or manufactured to be moved from one place to another by being towed or carried and meets a minimum CSA-Z240 standard.

"moorage" means the securing of a boat to a buoy or similar object that is in turn secured to the bed of the sea.

"natural boundary" means the visible high water mark of the sea, a lake, a stream or other body of water, where the presence and action of water are so common and usual and so long continued in all ordinary years as to mark upon the soil or rock of the bed of the body of water a character distinct from that of the bank, and in the case of a lot having a surveyed high water mark means the high water mark.

"panhandle lot" means a lot that fronts on a highway by means of a strip of land that is narrower than the main portion of the lot.

"park" means a publicly owned lot which is used or intended to be used for the recreation and enjoyment of the public and may be developed with recreational facilities or may be retained in its natural state.

"personal service use" means a commercial use of a building in which services are provided to the body or the clothing of a person.

"personal watercraft" means a vessel less than 5 metres (16 feet) in length that is propelled by machinery, commonly a jet pump, and designed to be operated by a person standing, kneeling or sitting on the vessel rather than standing or sitting inside the vessel.

"principal" in relation to a use, building or structure means the main or primary use, building or structure, as the case may be, conducted or constructed on a lot.

"pump/utility house" means an accessory building with a maximum floor area of 2.9 square metres (32 square feet) containing only equipment for pumping and processing of water or sewage, or electrical equipment and communication service equipment.

"recreational vehicle" means a tent trailer, travel trailer, motor home or other self-propelled vehicle containing sleeping, cooking and sanitary facilities, but does not include a mobile home or manufactured home.

"residence" means a home, abode or place where an individual is living at a specific point in time.

"restaurant" means the use of a building for the serving of alcoholic beverages and meals.

"retail sales" means the selling of goods or merchandise to the general public for personal or household consumption, but excludes the sale of liquor.

"school" means a public or private educational institution not including residential accommodation or dormitories.

"setback" means the horizontal distance that a building or structure must be sited from a specified lot line, building or feature.

"sign" means any device or medium, including its supporting structure visible from any highway or lot other than the one on which it is located and which is used to attract attention for advertising, information or identification purposes.

"short term vacation rental" means the use of a single family dwelling or a cottage as temporary commercial accommodation for a period of less than a month at a time by households, other than the owner or a permanent occupier, who maintain a permanent residence elsewhere. For this purpose, a cottage used as

5.2 Rural Residential Two (RR2)

BL 108

Permitted Uses

(1) The following uses are permitted, subject to the regulations set out in this Section and the general regulations, and all other uses are prohibited:

(a) Single family dwelling;

(b) Cottage;

(c) Agriculture;

(d) Short-term vacation rental of a single family dwelling;

(e) Accessory uses, buildings and structures, including, but not limited to, home occupations and roadside stands for the sale of produce grown on the same lot.

Density

(2) On a parcel less than 0.8 hectares (2 acres), only one (1) single family dwelling is permitted.

(3) On a parcel 0.8 hectares (2 acres) or greater, but less than 4.0 ha (10 acres), one (1) single family dwelling and one (1) cottage are permitted.

(4) On a parcel 4 hectares (10 acres) or greater, two (2) single family dwellings and two (2) cottages are permitted.

(5) The lot coverage of all buildings and structures may not exceed 25 percent of the total lot area.

Siting and Size

(6) The minimum setback for any building or structure, except a fence or pump/utility house, shall be:

(a) 7.6 metres (25 ft.) from any front or rear lot line;

(b) 3.1 metres (10 ft.) from any interior side lot line;

(c) 4.6 metres (15 ft.) from any exterior side lot line.

Conditions of Use

(7) Only one single family dwelling or cottage may be used for short-term vacation rental on a lot at the same time.

Subdivision Lot Size Requirements

(8) The minimum and average lot area requirements are 0.8 hectares (2.0 acres) for any lot created by subdivision.

Dear Linda:

I must offer my perspective on a few points in your letter to Cameron Thorn, dated January 23rd. You had written,
"4. Having now received that advice, I believe it may be helpful to share some observations with you, as follows:

a. Mr. Kenward's letter does not address the fact that you are uniquely the holder of a temporary use permit for a building that would be rendered unlawful if the South Pender Island Local Trust Committee (SPILTC) does not adopt certain bylaw amendments before the permit expires. Therefore, it is not clear that Mr. Kenward's opinion regarding 'interest in common' contradicts the opinion of Islands Trust legal counsel. As the temporary use permit is the source of conflict of interest in this case, this appears to be a significant issue.

b. Mr. Kenward's letter does not address your memorandum of November 2, 2012 to the South Pender Island Advisory Planning Commission in regards to the land use bylaws treatment of accessory buildings. It is unclear if this memorandum was included in his consideration. "

_____

On point 4 (a), I assume you have reviewed Mr. Thorn's letter of January 25th. While it may not be immediately apparent, there are implications that follow from the information on agricultural use accessory building and the fact that this use and building are permissible under the existing LUB for South Pender.

First of all, this information contradicts the assumption stated in 4 (a) that Mr. Thorn's building relies on amendments to our land use bylaw.

Further, it suggests that Mr. Thorn may not have received accurate or complete advice from staff when he was making his original applications. If he had been advised that his property allows for an accessory building for agricultural use, he would have had the option of using the building in a manner consistent with an agricultural use, with a broader use possible once the LUB was amended or when he built a single family dwelling. If such were the case, he would have required no more than a DVP for the additional building height, and the TUP would have been unnecessary.

In fact, he originally applied for both a DVP for additional height and a TUP for an outbuilding to be built before the construction of a principal residence. However, staff returned his application and fee for the DVP, stating that the height issue would be covered by the TUP.

On point 4 (b), significantly, it was I, a local Trustee, who asked Mr. Thorn to be sure to include in the November 2 APC deliberations the ideas on accessory buildings that he had already submitted to Andrea, Mike and myself back in June, 2012. Unfortunately, that written submission provided fuel for those who assumed a conflict of interest.

Mr. Thorn's comments on accessory buildings were nothing new to Trustees since the material was submitted to us well before the APC deliberations on the LUB review. I asked Mr. Thorn to include this material for the benefit of the community. It should have been included in the meeting agenda package for the September 18 LTC meeting, but was missing. As a consequence, the community had no chance to consider Mr. Thorn's comments. That is why I made my request.

As a Trustee, I am deeply distressed that a member of my community, someone who has been sincere and generous with his contributions and willingness to serve his community in an advisory capacity, is being treated so unjustly.

I urge you to review the facts. In my view, this exercise to seek and uphold a legal opinion to find a conflict of interest for a VOLUNTEER serving in an ADVISORY capacity is a very wasteful and damaging one. Further, I believe the case for a conflict of interest rests on errors and unfounded assumptions that could all have been avoided if there had not been such a rush to judgement.

Sincerely,
Liz Montague

Islands Trust

200 - 1627 Fort Street, Victoria, BC V8R 1H8
Telephone **(250) 405-5151** Fax (250) 405-5155
Toll Free via Enquiry BC in Vancouver 660-2421. Elsewhere in BC **1.800.663.7867**
Email information@islandstrust.bc.ca Web www.islandstrust.bc.ca

February 21, 2013 File Number: 2220-20

By email: Cameron@cameronthorn.com

Cameron Thorn
216 – 2780 Acadia Road
Vancouver, BC V6T 2L3

Dear Mr. Thorn:

The Islands Trust Executive Committee has recently reviewed a number of items related to concerns you expressed in a letter to Chief Administrative Officer (CAO) Linda Adams, dated November 26, 2012. We understand your concerns arose from questions raised by Vice-Chair Ken Hancock and staff at a meeting of the South Pender Island Local Trust Committee (SPILTC) on November 13, 2012 and a subsequent letter Vice-Chair Ken Hancock sent to you and the Chair of the South Pender Advisory Planning Commission (SPAPC). That letter, based on legal advice, expressed a belief that you had a conflict of interest and should not participate in discussion of certain matters under consideration by the SPAPC.

The Islands Trust Executive Committee has considered the concerns you raised, following the Islands Trust Council's policy for handling of complaints. We have reviewed all correspondence between you (or your legal counsel) and CAO Linda Adams on the matter, correspondence between you and Vice-Chair Ken Hancock, correspondence from Trustee Montague, related legal advice, and relevant minutes of the SPILTC and the SPAPC. While we have also considered Vice-Chair Hancock's perspectives on the topic, he did not participate in our deliberations regarding our response to you.

We were very concerned about the issues you raised, particularly because of the implications for you and for other community members who volunteer on advisory groups, assisting local trust committees by providing community input regarding land use matters.

In response to the concerns you have raised, we have the following response:

- Based on the information and advice we have received, the Executive Committee is satisfied that the actual advice provided to you and the SPAPC Chair regarding conflict of interest was appropriate.
- We believe that Islands Trust staff and Vice-Chair Hancock, in his role as Chair of the South Pender Island Local Trust Committee, had obligations to ensure the SPILTC's land use review process was procedurally fair and were making best efforts in carrying out those obligations, considering advice received.
- That said, we also understand many of your concerns about the process by which you (and others) were advised regarding this conflict of interest matter. While Islands Trust legal counsel has indicated that they didn't need additional information to provide advice on this situation, we can understand how the process would have felt unfair from your perspective, in that you were not offered an opportunity to provide information directly. To rectify this situation, we note that CAO Linda Adams did offer you an opportunity to provide additional information and to consult directly with Islands Trust legal counsel on the matter. We note that additional information provided by you was considered by Islands Trust legal counsel in re-evaluating the matter.

…/2

- Given broader public discussions about conflict of interest matters and (often unfounded) public perceptions about the topic, we regret that current Islands Trust policies did not provide a means to handle this matter differently. We would like to reiterate comments made by CAO Linda Adams – that the advice conveyed to you should not be construed as a criticism of your ethics or integrity. In our experience, legal advice may identify situations where a court could find a conflict of interest, even when those affected believe they are acting in good faith. We regret that this was not more clearly explained in earlier communications, and if you feel this has had negative implications for your reputation in the South Pender Island community. This was certainly not intended.

Based on this experience, the Islands Trust Executive Committee is considering the following actions, which we believe will address some of the concerns you have raised:

- The Islands Trust Council's current policy regarding access to legal advice does not clearly enable members of advisory groups to access legal advice on conflict of interest questions. We will consider recommendations to the Islands Trust Council that would address the needs of advisory group members related to such questions. In the interim we will, as chairs of local trust committees, remain alert to such questions and ask the CAO to use her discretion in providing such access to legal advice, should a similar situation arise in the near future.
- We recognize that the Islands Trust's current processes for orienting members of advisory groups could be improved. We will support development of a more helpful process for advisory group members, including a review of conflict of interest topics (we understand this is already being discussed for the SPAPC.)
- While it was not a direct focus of your written concerns, this issue has resulted in the identification of potential improvements to our policies for processing of Resolutions Without Meeting. We will support a review of the process and the potential development of changes to it.

While we have carefully evaluated your concerns and attempted to address them, you have the option of contacting the Office of the Ombudsperson if you are not satisfied.

In closing, I would like to express the Executive Committee's appreciation for your volunteer work on behalf of the South Pender Island Local Trust Committee and our thanks for raising a number of concerns that we believe can result in improvements to our internal policies and procedures. We regret any concerns that may have arisen from the way the matter was handled by staff or elected officials. We encourage all parties to focus on future initiatives that will foster a positive relationship among members of the SPILTC, the SPAPC and Islands Trust staff and that will serve the public interests of South Pender Islanders.

With thanks for your volunteerism.

Sincerely,

Sheila Malcolmson
Chair, Islands Trust Executive Committee

cc: South Pender Island Local Trust Committee
David Marlor, Director of Local Planning Services
Robert Kojima, Regional Planning Manager
Andrea Pickard, Island Planner
Carmen Thiel, Legislative Services Manager

YOUNG ANDERSON
BARRISTERS & SOLICITORS

REPLY TO: VANCOUVER OFFICE

VIA EMAIL: rkojima@islandstrust.bc.ca

CONFIDENTIAL

May 17, 2013

Robert Kojima
Regional Planning Manager
Islands Trust
200 - 1627 Fort Street
Victoria, BC V8R 1H8

Dear Mr. Kojima:

Re: APC Member Conflict of Interest
Our File No. 0002-0171

You have instructed us to review our November 16, 2012 opinion regarding an APC member conflict of interest in view of a January 4, 2013 letter to the Islands Trust from Clark, Wilson LLP, and provide a follow-up opinion. We have also reviewed Trustee Ken Hancock's November 23, 2012 letter to Buffy Patterson and Cameron Thorn regarding conflict of interest matters.

In preparing our original opinion we reviewed the following information:

1. An exchange of emails dated November 13, 14, 15 and 16 between Cameron Thorn and Trustee Hancock in which Mr. Thorn sets out reasons that he considers support his full participation in the APC's deliberations on proposed Bylaw No. 111

2. Draft minutes of the South Pender Island Advisory Planning Commission of November 2, 2012 indicating that Cameron Thorn was present at the meeting, and containing no indication that he did not participate fully in the meeting

3. Cameron Thorn's November 2, 2012 10-page memorandum to the South Pender Advisory Planning Commission regarding proposed South Pender Island Local Trust Committee Bylaw No. 111 including the question of construction of storage buildings prior to construction of residential dwellings on the parcel

4. Temporary Use Permit SP-TUP-2012.1 issued to Cameron Thorn on September 19, 2012 to authorize "a non-residential building for the purpose of general storage and workshop accessory to the adjacent residential property"

5. Proposed South Pender Island Local Trust Committee Bylaw No. 111 which addresses, among other things, the question of storage buildings on unoccupied residential parcels

6. Mr. Thorn's October 6, 2011 letter to David Greer and Andrea Pickard regarding South Pender OCP and Outbuildings Prior to Residential Dwelling, in which he states that he and his wife "may elect to eventually build a larger single-family dwelling" on the parcel that is now subject to the temporary use permit

7. The South Pender Island Local Trust Committee Advisory Planning Commission Bylaw

We confirm our opinion that Mr. Thorn had a common law conflict of interest when on November 2, 2012 he participated in the discussion of and voted on the South Pender Island Advisory Planning Commission's consideration of proposed land use bylaw amendments pertaining to construction of storage buildings on unoccupied residential parcels. Mr. Thorn's conflict of interest arose because he is the holder of a temporary use permit that permitted him to construct a building on an otherwise vacant parcel of land in the local trust area, construction that is prohibited by the South Pender Island Land Use Bylaw but could be permitted by proposed Bylaw No. 111.

Because this opinion differs from that contained in Clark, Wilson's January 4, 2012 letter we will comment on the points on which we are in disagreement.

1. The Clark, Wilson letter makes no direct mention of Mr. Thorn's temporary use permit. Rather it refers to the community of interest exception to conflict of interest principles, and the fact that there are between 240 and 270 RR zoned lots on South Pender Island of which at least 65 are vacant and hence potentially affected by the proposed zoning bylaw amendments dealing with accessory buildings on otherwise vacant residential parcels. It concludes "Hence numerous others have effectively the same interest as Mr. Thorn."

   We tend to agree that if Mr. Thorn also had a vacant residential parcel and the parcel numbers in the Clark, Wilson opinion are correct, the community of interest exception could permit his participation in APC deliberations on proposed Bylaw No. 111. However he does not have a vacant residential parcel; he has a parcel on which he had on November 2, 2012 begun to construct a substantial 53.2 square metre building that is authorized only by a TUP. This fact takes him out of any exception based on community of interest. He has a special interest in Bylaw No. 111 that is not shared with the owners of vacant residential parcels. His temporary use permit will expire on September 19, 2015 unless renewed by the Local Trust Committee, which renewal is wholly discretionary, and upon the expiry of the permit (in 2015, or 2018 if the permit is renewed) his building will be unlawful unless Bylaw No. 111 or a similar bylaw permitting such buildings is adopted, and he will again be potentially subject to bylaw

enforcement proceedings which could include a requirement that the building be removed.

Lawful non-conforming use status does not attach to buildings authorized by temporary use permit, as the Clark Wilson opinion suggests. It attaches only to buildings that were lawful under the applicable zoning regulations at the time they were constructed, and the *Local Government Act* in fact allows the use of a temporary use permit only if the use that it permits is prohibited by the applicable land use bylaw.

Since in our November 16, 2012 letter we suggested that Mr. Thorn would have to remove his building if the land use bylaw amendments are not adopted, we must address whether the fact that the building could instead be lawfully used as a building accessory to an agricultural use of the parcel as the Clark, Wilson letter suggests, makes any difference to our opinion. An agricultural accessory building would only be allowed if there was a principal agricultural use of the parcel, and establishing such a use (which his October 6, 2011 letter indicates is not his intention) could put Mr. Thorn to more than trivial expense in either time or money or both. It is also true that Mr. Thorn might be able to avoid having to remove the building by consolidating his two adjoining parcels, or by building a dwelling on the parcel that benefits from the temporary use permit, but none of these possibilities diminishes the fact that he presently has a special interest in proposed Bylaw No. 111 as regards this type of building, that he does not have in common with the owners of vacant residential properties in the local trust area. The case law clearly indicates that a significant proportion of the owners of the 65 RR properties would have to be the holders of temporary use permits for buildings of this type, before Mr. Thorn would be able to rely on the community of interest exception to conflict of interest principles.

In summary, we disagree with Clark, Wilson that a focus in a conflict of interest analysis on the building authorized by Mr. Thorn's temporary use permit is unfounded. To the contrary, his building and the temporary use permit that authorized it are precisely what give Mr. Thorn an interest in proposed Bylaw No. 111 that is special.

2. The Clark, Wilson letter relies on the B.C. Supreme Court's December 2, 1998 decision in *Save Richmond Farmland Society v. Richmond (Township)* for the proposition that procedural fairness requirements do not apply to the APC because it is merely an advisory body. The *Save Richmond Farmland* case was an application under the *Judicial Review Procedure Act* for orders quashing the adoption of an OCP amendment bylaw by Richmond's council and the exclusion of certain land from the Agricultural Land Reserve by the Agricultural Land Commission, in each case on the grounds that a member of the Advisory Planning Commission that had provided recommendations to the Council on the OCP amendment had an attitudinal bias related to her personal involvement in the development industry. The Court decided that remedies available under the *Judicial*

Review Procedure Act were not available to the Society challenging the decisions because the APC did not exercise a "statutory power of decision" under that Act (which was required in order to give the Court jurisdiction over its procedure); it was merely an advisory body.

If the South Pender Island Local Trust Committee were to adopt proposed Bylaw No. 111, we agree with Clark, Wilson that the reasoning in the *Save Richmond Farmland* case would likely be fatal to any application to have the bylaw set aside under the *Judicial Review Procedure Act* on the grounds that Mr. Thorn had a personal interest in the bylaw and should not have participated in APC deliberations that may have informed the LTC's decision to adopt the bylaw. However our opinion was not given in the context of an application for judicial review of a local trust committee bylaw. Rather we were addressing a requirement in the South Pender Island Local Trust Committee Advisory Commission Bylaw that the Chairperson "ensure proper conduct of all meetings in accordance with ... the principles of procedural fairness", and that is an entirely different matter.

We do not think, and Clark, Wilson does not state, that the effect of the *Save Richmond Farmland* case is that a local government cannot, in establishing an APC, require that it conduct its business in a procedurally fair way. In an extreme case that would mean that a local government could not stop an APC member from participating in a discussion of and voting on their own development permit or rezoning application. As a point of interest, the City of Richmond itself has included, in the terms of reference for its Advisory Committee on the Environment and its Economic Advisory Committee (the City no longer has an APC), requirements that members declare conflicts of interest and recuse themselves from deliberations in which they have a conflict of interest.

The fact that a local government may, as the Court noted in the *Save Richmond Farmland* case, choose to give less weight to APC recommendations that it considers may be contaminated by a procedurally unfair process, does not mean that a local government cannot attempt to head off such scenarios, ensure the usefulness of APC recommendations and establish a high standard of governance by requiring that the APC conduct all of its business in a procedurally fair manner. It remains our opinion that APC procedures are not fair to members of the public whose interests the APC is supposed to be representing or who may be advocating that the APC take certain positions on proposed bylaws or other matters that have been referred to it, when an APC member with a special personal interest in proposed bylaw amendments participates in the APC's deliberations on those bylaw amendments. That being the case, it is in our view entirely appropriate for the Chair of the Local Trust Committee to

remind the APC members of the requirement for procedural fairness that is set out in the APC bylaw, to protect the integrity of the APC's future deliberations.

Sincerely,

YOUNG ANDERSON



Bill Buholzer
buholzer@younganderson.ca

BB/mw

Memorandum – Privileged and Confidential

TO: Linda Adams; Robert Kojima

FROM: Bill Buholzer

DATE: May 24, 2013

RE: Cameron Thorn

FILE No.: 2-171

We met with Mr. Thorn for about an hour this morning; it was very cordial.

There are two substantive matters that he stressed in this meeting, neither of which changes our opinion. Notes he prepared for the meeting have been forwarded to you by separate e-mail. He did not raise the question of whether I was limited by solicitor client privilege. I think he was a bit surprised about how much of the information he wanted to bring to my attention I was already aware of. I did not indicate to him what I thought of the points he was making or whether the Islands Trust has requested any follow-up opinion to our original opinion on this matter.

The first substantive point is that he had no interest at all in the outcome of the LTC's bylaw amendment deliberations as regards accessory buildings because he plans to build a dwelling on the property that is the subject of his TUP and in fact has already installed services between the accessory building and the dwelling site for that purpose. Our view on that point is that his subjective intentions are not relevant to conflict of interest analysis. What is relevant is the perception of others, and in our view a reasonable person aware of the situation would think that a TUP holder would prefer to have the option of abandoning the dwelling plans but leaving the accessory building in place, or proceeding with the dwelling plans in a longer time frame, and would therefore have a special interest in the bylaw amendment.

The second is that he has no interest at all in the outcome of the bylaw amendment deliberations because he is already permitted to have an agricultural building on the lot. This position is of course inconsistent with the fact that he applied for a TUP but the fact is that he

did and does have this option regardless of the proposed bylaw amendments. This position merely identifies another potential scenario in which the accessory building would be lawful, without the land use bylaw being amended to allow accessory buildings without principal buildings, following the expiry of the TUP. (Consolidation of the parcels is also an option, one that he does not wish to pursue because his existing dwelling is too large to qualify as a "cottage" under the land use bylaw.) Mr. Thorn pointed out the relatively trivial nature of the changes that he considers he would have to make to the use of the land and the accessory building to make it comply with the land use bylaw provisions for agriculture uses, and gave as an example the harvesting of wild blackberries from the lot and the use of the accessory building for canning them. We have addressed the agricultural use scenario already in our follow-up opinion and if you wish to have the opinion revised we could address more specifically the example that Mr. Thorn has used. (It's unlikely that that would qualify as an agricultural use.) In our view, even if all he has to do is go through the charade of undertaking these activities on the land to maintain the legal status of the building, the conflict of analysis does not change; a reasonable person would in our view think that a TUP holder would prefer to have the option of not going through that charade in order to keep the building, and would therefore have a special interest in the bylaw amendment.

Mr. Thorn again brought up the issue of procedural fairness in the preparation of the opinion. Mr. Thorn refers to having been "accused" of conflict of interest, and having had "claims" or a "judgment [made] against me". Chair Hancock's letter that contains this "accusation" or "judgment" states that Mr. Hancock has reviewed legal advice provided to the Islands Trust and that his understanding of it is that "Mr. Thorn has a conflict of interest" and should not continue to participate in the discussion of the land use bylaw amendments. This letter is a proper attempt to preserve the integrity of APC deliberations and in our view administrative law requirements of procedural fairness do not apply to its preparation, nor to the preparation of the legal opinion that preceded it; their perceived relevance to these actions in our view arise largely from Mr. Thorn's chosen characterization of the letter as a "judgment" and the heightened significance that such language ascribes to it. We would not recommend that the Islands Trust attempt to apply procedural fairness principles in internal matters of this nature, and would therefore suggest that the administrative fairness policy be reviewed to ensure that it cannot be construed to so apply, and revised if necessary.

Mr. Thorn made some points about the reason for his lengthy submissions to the LTC and APC on the land use bylaw amendments being not that he had any personal interest in the accessory building amendments but that he was concerned about "historical revisionism" as regards any relationship between the amendments and the new local trust area OCP. Again, Mr. Thorn's subjective reason for having made these submissions is not relevant to conflict of interest analysis; the question is whether, objectively speaking, he was attempting to influence the LTC when he participated in the November 2, 2012 deliberations and motion on whether to recommend that the LTC take certain actions as regards the bylaw amendments, including reviewing his own 10-page submission that was attached to and formed part of the APC

minutes and that commented specifically on construction of “storage buildings” prior to construction of single-family dwellings, and whether his special interest in those amendments arising from the situation with respect to his own accessory building could affect that participation.

Finally Mr. Thorn made some comments about the lack of any orientation for APC members in procedural fairness matters, his point being that it was unfair of the Islands Trust to simply assume that he should have known not to participate in the APC discussion of these bylaw amendments given a special interest. It is difficult to find fault with that criticism in that the APC bylaw is not specific about what procedural fairness requirements apply to APC deliberations and APC members apparently had no orientation on this topic. This point overlaps a bit with the discussion that we had with Trustee Montague last week and speaks to the possibility that the APC bylaw should be more specific about conflicts of interest. If you think that a supplementary opinion should include some observations about clarifying the role of procedural fairness in APC deliberations and providing orientation to APC members, in our view (assuming release of the opinions to the public) that might give Mr. Thorn some comfort in what has, we understand, become a *cause célèbre* on South Pender. He said that he supports the public release of our original opinion, and any follow-up opinion we might be instructed to prepare regardless of what the conclusion is.

We are quite prepared to add to our follow-up opinion provided last week to address any of these matters if you think it would be helpful, whether or not the opinion is going to be released to the public.

BRITISH COLUMBIA PLANNING LAW AND PRACTICE

William Buholzer M.A. (Planning), LL.B.

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consider the recommendations of its town planning advisory board before making decisions on applications for minor variances. After the council approved a variance without having before it a proper recommendation from the advisory board, it entered into development agreements with the developer and issued development and building permits, and the provincial government issued a development certificate for the project in question. The court held each of these approvals to be void because of the lack of a recommendation from the town planning advisory board. This case highlights the problems that can result from establishment of a mandatory referral to an advisory planning commission.

1 *Sobey's Inc. v. Charlottetown (City)* (1996), 31 M.P.L.R. (2d) 254 (Prince Edward Island Supreme Court).

§15.12 An APC bylaw should never oblige the council or board to follow the APC's advice, as this would amount to an unlawful delegation to the commission of the council's or board's ultimate decision-making power.

F. CONFLICTS OF INTEREST AND BIAS

1. CONFLICTS OF INTEREST

§15.13 The *Local Government Act* includes detailed rules for the conduct of council and regional board members who find themselves in a "conflict of interest" situation. Such situations occur relatively frequently where planning and land use matters are concerned, and the question arises whether similar rules should apply to the conduct of APC members. The *Local Government Act* is silent on the point.

§15.14 At common law, a "conflict of interest" exists when a person in public office has a special, private interest in a matter on which they are called upon to make a decision in their public capacity. Recognizing that it is impossible for a person in such circumstances to "serve two masters", the common law requires that the official refrain from exercising their public duties with respect to the matter. Under s. 100 of the *Community Charter*, a council or board member who has a special private interest in a matter must declare their interest at the meeting when the matter comes up, leave the meeting, and refrain from participating in the discussion of or influencing the vote on the matter. If they fail to do so they may be disqualified from holding office, and the council's or board's vote on the matter may be jeopardized. In practice, the decision on whether to make a declaration of interest and leave a meeting is up to the individual councilor

or director involved; neither the mayor or chair of the board, nor the members collectively, can properly force a member to retire from discussion or voting on a matter on account of an alleged private interest.

§15.15 During the deliberations of an APC on applications for bylaw amendments and permits, it is inevitable that similar "conflicts of interest" will arise; for example, an application might directly involve an APC member, or a professional member such as an architect may have even provided services to the applicant.[1] Individual members' sense of fair play will usually prompt them to withdraw from the discussion of the commission's business in these circumstances. There is no reason that the council or board in enacting the APC bylaw, or the APC members themselves if they have been given authority under the bylaw to make their own procedural rules, cannot adopt a code of conduct for such circumstances. The bylaw should place the onus on the member to withdraw voluntarily if they consider that they have a conflict of interest, and focus on the procedure to be followed, so that the commission's recommendation will not be tainted by the private interest of one of its members.

1 In *Reid v. Sunshine Coast Regional District*, unreported (February 2, 1990, New Westminster No. A891766, B.C. Supreme Court, Hinds J.) petitioners attempting to have a zoning amendment bylaw set aside unsuccessfully alleged that the bylaw had, improperly, not been referred to the advisory planning commission for advice to the regional board. Noting that both the rezoning applicant and his real estate agent were members of the commission, the court observed that they would have been in a conflict of interest if the bylaw had been referred to it and if they had participated in discussions leading to a recommendation to the board. The absence of a referral of this bylaw to the commission was, in the court's view, "understandable" in these circumstances.

2. BIAS

§15.16 Even though a member of an APC may not have a special private interest in a particular matter that comes before it, it might still be alleged that they ought not to participate in discussion of the matter on account of some bias on their part against applications of that nature. For example, if the matter is the amendment of the official community plan to designate an ecologically sensitive area, and one of the commission members is a member of a local environmental group, the owner of the land affected might be inclined to doubt that that member will approach the matter with an open mind. The B.C. Supreme Court dealt with such a case in 1988,[1] and in so doing established that there is no rule that the members of an APC must have an "open mind" in matters that come before them, as there is

with respect to members of a council or regional board at a statutory public hearing.

[1] *Save Richmond Farmland Society v. Richmond (Township)* (1988), 36 Admin. L.R. 45 (B.C. Supreme Court).

§15.17 The 1988 case rose from the application to remove the Terra Nova lands in Richmond from the Agricultural Land Reserve. Richmond's Advisory Planning Commission recommended the removal and the associated OCP amendment; one of the members of the commission was employed by the owner of a large portion of the lands and, while she did not vote on the recommendations, she participated in a small sub-committee of the commission that considered the matter and reported to the commission recommending the removal of the land from the Reserve. The Society sought judicial review of the APC resolutions, the OCP amendment and the consequent provincial Order-in-Council removing the lands from the Reserve, on the grounds of bias in the APC. The court acknowledged the special interests of the members of the commission, noting that the Council made a conscious decision to appoint members to represent both geographical areas of the community and special interest groups and that the APC member who was alleged to be biased had been appointed to represent the development industry. The court refused to set aside the recommendation of the APC, because the rule of procedural fairness requiring an unbiased decision-maker did not apply to Advisory Planning Commissions, which do not make decisions but merely advise.

G. JUDICIAL REVIEW OF COMMISSION DECISIONS

§15.18 The *Judicial Review Procedure Act* provides an avenue for attacking in the courts the decisions of public bodies that exercise a "statutory power of decision"; this procedure is discussed generally in Chapter 2. The decisions of advisory commissions are not, as a general rule, subject to review by the courts on "procedural fairness" grounds, as are the decisions of municipal councils and regional boards. In the *Terra Nova* case referred to in the previous section,[1] the B.C. Supreme Court held that it had no jurisdiction to set aside a recommendation of an Advisory Planning Commission under the *Judicial Review Procedure Act* because the recommendation is not a "decision". The Court's reasoning was as follows:

> Section [898 of the *Local Government Act*] authorizes a council to establish an advisory planning commission "to advise" it on matters respecting land use, community planning, etc. That advisory function, as opposed to a regulatory or legislative one such as resides in the council itself, is crucial to the outcome of the attack which the petitioners make on the decisions of the Advisory Planning

> Commission to recommend to Council the adoption of the draft Official Community Plan (Bylaw 4700) and the application to exclude lands (seven areas in all, including Terra Nova) from the Agricultural Land Reserve.
>
> ...
>
> The respondents submit that the principle [of procedural fairness] does not apply to the Advisory Planning Commission, which exercises no statutory power of decision.... It is merely an advisory body, the members of which are appointed by Council with a view to their respective special interests being thus represented. The weight which Council decides to give to their advice is a matter for Council to determine. I accept that argument. The law respecting judicial review regards advisory functions in a much different light than adjudicative ones.
>
> ...
>
> It is the Council itself which exercised the statutory power of decision. Bylaw 4700 is a legislative enactment of Richmond Council concerned with broad policy and applicable to a wide range of lands and issues of which Terra Nova is only a part. I agree with the submission of Richmond that where Council is acting legislatively on general policy matters, then subject only to compliance with the procedural requirements of the enabling legislation, the rules of natural justice have limited application. An apprehended bias in a mere advisory body once removed can have no effect.

[1] *Save Richmond Farmland Society v. Richmond (Township)* (1988), 36 Admin L.R. 45 (B.C. Supreme Court).

§15.19 This principle applies to all advisory bodies, such as community heritage commissions, that may be appointed to advise land use regulatory authorities. The Court concluded that the rules of procedural fairness have "limited application" and not that they have no application at all. This leaves room, for example, for the operation of the rule that one cannot be a judge in one's own cause, and that a member of a commission must therefore withdraw from discussion of a matter in respect of which they have a conflict of interest. Where the commission is exercising delegated decision-making power, as commissions appointed under s. 154 of the *Community Charter* may be authorized to do, the *Judicial Review Procedure Act* and the rules of procedural fairness will apply more fully.[1]

[1] The design review panel appointed under the *New Westminster Redevelopment Act*, S.B.C. 1989, c. 34 may specify conditions on various matters when it reviews developments proposed in the special development area established under that statute, and those conditions are automatically imposed on the owner as development permit conditions. This is a rare example of a design review panel exercising a decision-making power, which would likely have to be exercised in accordance with the rules of procedural fairness.

From: Cameron Thorn <cameron@cameronthorn.com>
Date: February 11, 2014 at 11:07:08 AM HST
To: Marie Smith <msmith@islandstrust.bc.ca>
Cc: Jas Chonk <jchonk@islandstrust.bc.ca>
Subject: Islands Trust - Trust Council - Delegation Request - Hornby Island

Hello Marie and Jas,
I am writing you regarding the upcoming Trust Council Meeting on Hornby Island, March 4 - 6, 2014 and the opportunity to appear as a delegation. I am hereby requesting to appear as a delegation to the Trust Council.

Name: Cameron Thorn

Organization: None

Subject Matter: Advisory Bodies and Conflict of Interest: Policy Recommendations

Best Regards,

Cameron Thorn

Executive Summary: Conflict of Interest & Islands Trust APC's

Background: Recent Islands Trust legal advice says that Advisory Planning Committee (APC) members are subject to the same conflict of interest (COI) rules as Trustees.

Facts: 1) Most, if not all, members of gulf island advisory bodies have received no training or information regarding conflict of interest, leaving them exposed to conflict of interest rulings against them.

2) Islands Trust legal counsel has opined that COI rules for APC's may not always serve small communities well.

3) A landmark Supreme Court decision established that advisory bodies exercise no statutory power of decision and are "merely advisory bodies." The Court states, "The power to advise does not amount to a power to order or determine." The Trust's legal counsel has opined that advisory bodies are also decision makers because *they decide* what to recommend.

4) The Community Charter establishes disclosure and conflict of interest rules governing members of Council. The Community Charter does not extend these rules to advisory bodies.

Issues: **If circumstances allow that the Trust's legal opinion overrules Supreme Court findings, then:**

1. Annual training and access to legal advice for over 80 APC members should be implemented now, a significant resource impact (staff, training & legal costs).
2. Membership in APC's may decline, if the risk of damage to reputation of a COI ruling discourages volunteers.
3. As surmised by Trust legal counsel, COI rules may inhibit APC functionality in small communities, so an "opt out (of COI rules) option" should be made available.

If a re-examination of the Trust's legal opinion provides reasonable doubt as to its supremacy (relative to the Supreme Court decision), then the Trust:

1. Should provide transparency in its APC bylaws regarding COI rules, either specifically applying them to recommendation makers or not.
2. Provide APC members access to tools appropriate to whatever COI rules apply

3. Recognize the discrepant legal opinions as to current APC COI application and provide existing APC members and affected LTC's acknowledgement that COI rules for APC are currently unclear, and therefore not necessarily applicable.

Recommendations:

That Trust Council:

1. Place resolution of this Trust-wide issue as a high priority for completion in this term.

2. Direct Islands Trust staff to prepare a report providing the impact (staff, training & legal costs) to equip all or some APC's with the tools to comply with COI rules on an annual basis.

3. Debate the benefit of COI rule application to some or all APC's as against the costs of COI rule application to some or all APC's.

4. Seek additional advice to determine if Islands Trust APC's are bound by COI rules or if the Supreme Court decision that APC's are recommendation makers would prevail.

Collateral Issues

While not relevant to the core issue of whether Islands Trust APC's are bound by Conflict of Interest rules or not, the points below are provided as perspective and for potential further policy examination as these all have Trust-wide implications.

Relevance (of A Finding of Conflict of Interest)

Of what relevance is a finding of conflict of interest to the individual or organization to which the individual represents? Many would say it is an issue of ethics and integrity and therefore significant.

In the recent APC COI case, Trust staff have stated, "there is nothing improper about a conflict of interest".

The Trust publicly advised that a volunteer member of a Local Trust Committee had a conflict of interest adding they could no longer participate in their APC function respecting that issue. If not improper, what creates the prohibition?

In contrast to the Trust suggestion there is nothing improper about having a conflict of interest, the APC member felt "accused "of a conflict of interest; a decision was made to bar their further participation and by extension, a reasonable inference can be made that (their) ethics and integrity were called into question. Is it reasonable for a party in this circumstance to feel aggrieved? Have Trust actions in other conflict of interest cases (like the recent Salt Spring Island Conflict of Interest with two trustees) suggest questions of ethics and integrity are reasonable concerns?

Trust staff have suggested that the Island Trust letter to a member of an advisory body advising them that they have a conflict of interest was "an opinion", and not a decision. However the letter prohibited the member from further participation on the matter in question and the letter was signed by a member of the Trust Executive. Was the letter an opinion or a decision?

Urgency:

If a decision is to be made to find a person in Conflict of Interest, what urgency should be applied to that decision so as to reflect a reasonable and just process?

The process upon which the Salt Spring Island trustees were found to have a conflict of interest took many months – through the BC court system.

The process of finding a conflict of interest in the recent APC member's case was

much faster. At a November 13th LTC the Chair made statements about an APC's members' potential bias/conflict of interest and ten days later, a letter was issued with the finding. The Trust decision approving the letter was by RWM, with only the Chair and one (non-resident, non-property owning) local trustee voting, the other trustee excluded due to a one-day absence. The APC member had no "opportunity to be heard. " Is this a Trust-wide procedure to condone and adopt?

Procedural Fairness:

In the most recent APC COI case, the APC member was provided no "Opportunity to be Heard" prior to the decision (by RWM) to sanction the member for conflict of interest. Had the "Opportunity to be Heard" been available, cost and aggravation, both for IT staff and constituents, may have been avoided.

So where do the Islands Trust Administrative Fairness policy provisions apply, including "Notice of Proceedings" and "Opportunity to be Heard/Respond?" Islands Trust staff suggested recently it is limited to land use and rezoning decisions. But the opportunity to be heard is a core element of procedural fairness; does Trust Council wish to fetter fairness to specific decisions or actions?

Islands Trust legal council recently recommended that procedural fairness principles such as an "Opportunity to be Heard" **not** be applicable in determining a conflict of interest and suggested the Administrative Fairness Policy be reviewed to ensured it **cannot** be construed to apply. Is this a standard upon which this Trust Council wishes to conduct business?

Recommendation:

That Trust Council give consideration to these points when and if APC policies are being reviewed.

PART 1:

Introduction:
My name is Cameron Thorn and I am here to speak about transparency, due process and accountability. I am also here to urge the Islands Trust to commit itself to a more respectful relationship with its advisory bodies.

I was previously a volunteer member of the South Pender Advisory Planning Commission. It was in this context that the Trust accused me of being in a conflict of interest. Although I have been working over the past year and a half to clear my name of this accusation, I did not envision speaking to the Trust Council on the matter. That said, I am glad for the opportunity to speak to you today regarding advisory bodies and conflicts of interests.

I only want to touch briefly on the specifics surrounding the conflict accusation against me -- and just to provide context - as the specifics of my situation are not the issue for the broad audience of the Trust Council.

I suspect there are some here today that are not thrilled I am speaking to the Trust Council regarding conflict of interest and will claim the issue is 'old news.' Although the conflict of interest accusation occurred almost 1½ years ago, the errors in due process and the conclusions drawn by the Trust and its solicitor are not 'old news' and have precedential implications across the islands.

There are three main issues of concern for all of us: (1) the exclusionary process through which the Trust determined the 'facts' necessary to establish a conflict and, the lack of any opportunity for the accused to be heard prior to a decision being rendered; (2) accusing an APC member of a conflict in the absence of any conflict of interest regulations applicable to our S. Pender advisory planning committee and in spite of any training on conflict of interest; and (3) the legal contortions the Trust's solicitor undertook to apply established conflict of interest rules for *decision-makers* to now, *recommendation-makers*. (The Trust's lawyer has ventured, "recommendation makers have to *decide* what to recommend.")

The conflict of interest accusation against me has been divisive, costly and very controversial. It has also been a key factor in strained relations between the community of South Pender and the Islands Trust. This could been entirely been avoided if the Trust had not been in a rush to pass judgment and if pursuant to its own Administrative Fairness Policy - and the core principles of procedural fairness - it had provided me an Opportunity to be Heard before conclusions were drawn.

Staff claim they didn't seek my input because one, their solicitor said he didn't need to hear from me to reach his conclusion and two, because they believe the 'Opportunity to be Heard' only applies in matters such as land use and rezonings. The Trust solicitor, Bill Buholzer, in a confidential memo to senior Trust staff recommended that procedural fairness principles such as an Opportunity to be Heard not be applicable in determining a

conflict of interest and he suggested the Trust's Administrative Fairness Policy be reviewed to ensured it cannot be construed to apply.

I hope that by speaking with you today and sharing my experience the Trust Council will appreciate the importance of open communication with advisory bodies particularly in those circumstances where the Trust feels there is, or may be a potential conflict. This approach is far superior to an exclusionary process and a rush to pass judgment without being aware of all the facts.

Moving forward I would recommend the Trust take concrete steps to develop a thoughtful, consistent and balanced policy on conflicts of interest for advisory bodies. In concert with such a policy I would also recommend that if advisory bodies are to be subject to conflict of interest provisions, they have access to training workshops on Standards of Conduct and Conflict of Interest such as those currently given to Trustees and staff.

Background and Timelines:

My wife and I are owners of two adjacent properties on South Pender Island. We purchased the first property in 2006 and eventually constructed a single-family dwelling. In July 2011 we purchased the adjacent vacant property when it came up for sale. Both properties are zoned rural residential and each allow single-family and accessory buildings including agricultural uses and buildings.

In 2011 after considerable public input a new Official Community Plan for South Pender was adopted. Of interest here, a new policy was adopted advocating for "*regulations that would permit outbuildings as a permitted principal use prior to construction of a residential dwelling on rural residential lands.*"[1]

I was supportive of the OCP and the range of outbuilding uses as described by trust newsletters and our former trustee, Wendy Scholefield. Uses such as, a storage-building, a garage, a workshop or other type of non-residential building.[2] In 2012 I applied to build an outbuilding because its described *uses* most closely resembled the *uses* I intended for the building. (Art studio, home office and storage) However, I did have other options under the existing land use bylaw - which I will explain later - under which I could construct and *use* my building in perpetuity.

Because the South Pender Land Use Bylaw (LUB) had not been updated to incorporate directions from the OCP including the outbuilding policy, I applied for and obtained a Temporary Use Permit (TUP) to build my structure.

Several months later as a member of the Advisory Planning Committee I participated in a review of staff proposed amendments to the land use bylaw. I provided a critique on a

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[1] South Pender OCP, October 28, 2011, 3.1.2(a)(iii)

[2] June 2011 Islands Trust Public Newsletter and August 8, 2013 Wendy Scholefield email to SPLTC

number of the staff proposals including the one on outbuildings which staff had re-cast as a 'storage-building' - restrictive in use and in size - and which bore no resemblance to the outbuilding policy in the OCP. Notably, the APC abstained a formal recommendation on the staff amendments and instead urged the LTC to consider our comments and to engage the community in a discussion on the principals and objectives that should be contained within the land use bylaw.

Three weeks later to my shock and surprise I received, along with the other members of the APC, an Islands Trust letter stating that I had a conflict of interest[3]. The letter also noted that although statutory conflict of interest provisions were not applicable to the APC, procedural fairness rules were. The letter cited a right to an unbiased recommendation-maker as a principle of procedural fairness and claimed that I had a personal interest in the proposed storage building regulations and that I was uniquely affected by this proposal because of my temporary use permit. Subsequent correspondence from the Trust elaborated, stating that upon the expiry of the TUP and in the absence of amendments to the land use bylaw, my building would become unlawful and I would lose the use of my property.[4]

I provide this summary simply to provide context for my comments and to illustrate the key point, namely, that if dialogue and an 'opportunity to be heard' had occurred – and if staff had sought all the facts - it would have been patently obvious that the conflict claim was unfounded and there were several options under the existing land use bylaw to which the building conforms that allow for *numerous uses* and for the building to exist in perpetuity.

PART 2:

Analysis:
I want to summarize for you some of the points in law that were referenced by Mr. Buholzer, the Trust solicitor, in concluding a conflict of interest and that were subsequently challenged by myself and my solicitor, Mr. Peter Kenward. Mr. Kenward is a recognized expert in municipal law both provincially and nationally. Incidentally Mr. Kenward mentored Mr. Buholzer when he was an articling student.

Advisory Capacity:
The analysis related to 'procedural fairness' referenced in the Islands Trust November 23, 2012 letter deals with "recommendation maker" as if it is equivalent to "decision maker", and thereby fails to properly account for:

i. the fact the AP is simply an *advisory* body that was asked to make general comments as a first step in advance of a public consultation process;
ii. the propositions of law established in the *Save Richmond* case; and
iii. the fact that all the APC did in this case was recommend further consultation

[3] November 23, 2012 letter, Chair, South Pender LTC

[4] January 23, 2013 letter, Islands Trust CAO

Despite the *Save Richmond* case establishing that an APC is merely an advisory body and does not exercise a 'statutory power of decision' the Trust solicitor extended the rules for decision makers to recommendation makers without any apparent statutory or legal authority. Mr. Buholzer has opined that the basis for this is that "recommendation-makers have to *decide* what to recommend." With respect, Mr. Buholzer's conclusions on advisory bodies as *decision makers* stretch established law and, logical thinking.

Procedural Fairness:

The Trust and its solicitor state, *"the right to an unbiased decision-maker (or recommendation-maker in this case) ... is one of the basic principles of procedural fairness."*[5]

The *opportunity to be heard* is also one of the basic principles of procedural fairness.

The Islands Trust Policy Manual also outlines the same in its chapter on Administrative Fairness Principles[6] and notes that parties who may be affected by a decision or an action have a right to be notified in a timely manner about the decision making process and opportunities to participate. The Policy Manual also recognizes the right of parties to be provided the "Opportunity to be Heard/to Respond."

Senior staff (Robert Kojima) argue these fairness provisions only apply to land use and rezoning decisions, but there is no documentation I am aware of to suggest or to support this.

Clearly, the Trust and solicitor makes selective references to the principles of procedural fairness in support of their proposition of a conflict:

i. Regarding the lack of opportunity to be heard, Trust letter from the CAO states, *"I have confirmed with our legal advisors that they believe the situation was fairly clear cut and they would have contacted you had they required additional information."*[7]
ii. Buholzer recommends that procedural fairness principles such as an Opportunity to be Heard not be applicable in determining a conflict of interest and he suggested the Administrative Fairness Policy be reviewed to ensured it cannot be construed to apply[8]

Paul Petrie, a former member of the South Pender APC, is a national authority in administrative justice and the conduct of fair hearings and has developed course curricula on these topics for the legal community. Mr. Petrie wrote to the Trust last year expressing grave concerns regarding the lack of due process by the Trust before it pronounced that I had a conflict of interest. Planning staff have said they were

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[5] November 23, 2012 letter, Chair, South Pender LTC

[6] Islands Trust Policy Manual, Administrative Fairness Principles, 7.1.1. C.3

[7] November 30, 2012 letter, Islands Trust CAO

[8] May 24, 2013 confidential memo from Trust Solicitor, Bill Buholzer to CAO and Trust Planner

"disappointed in Mr. Petrie's comments and do not agree with them". I have included Mr. Petrie's letter in my speaking notes package.

Conflict of Interest Letter: An Opinion or a Decision?

On the matter of an Opportunity to be Heard /To respond, staff (Robert Kojima) stated the November 23, 2012 Island Trust letter to Cameron Thorn, although "strongly worded, was only an opinion" and not a decision. On this basis staff argued there was not a need to grant me an opportunity to be heard. This argument is flawed on two counts: One the "legal opinion" letter has the impact of a legal *decision* because it was written by the LTC Chair to the APC stating, "Mr. Thorn has a conflict of interest" and instructed that *"Mr. Thorn's participation in APC discussions, or submissions as an APC member, on the issue of storage buildings should not continue."* The letter therefore functions as a decision not an opinion.

Secondly, to suggest that concerns about the lack of due process are not applicable because the November 23, 2012 letter contained an opinion not a decision, also fails to respect the Administrative Fairness policy on due process regarding not just "decisions" but also "actions".

Personal Interest or Interest in Common with Others:

Mr. Buholzer argued that I did not have a community of interest with the owners of other vacant residential parcels who would also be affected by the LTC's eventual decision on storage buildings / outbuildings within the amended land use bylaw. "Unlike these other owners, he holds a temporary use permit authorizing such a building notwithstanding the current prohibition on such buildings, and has *invested in the construction of such a building which he will eventually have to remove* if the land use bylaw amendments are not adopted."[9] "He holds a special interest in Bylaw No. 111 that is not shared with the owners of vacant parcels."[10] This special interest "would disqualify him from participating in discussion of this particular aspect of the proposed land use regulations if the APC were a decision-making body."

In fact, my comments as a member of the APC were made with no personal concern for the fixed term of the TUP or the eventual LTC decision on storage buildings / outbuildings.

Over the previous six years I had become very familiar with the existing land use bylaw and knew there were a number of provisions in the existing land use bylaw under which my building had legal standing regardless of the TUP expiry or any amendments to the land use bylaw.

i. Our existing home on the original property is of modest size and we were actively designing a larger single-family dwelling for the second property (the property

[9] November 16, 2012, memo from Trust Solicitor, Bill Buholzer to Trust Planner

[10] May 17, 2013 memo from Trust Solicitor, Bill Buholzer to Trust Planner

containing the outbuilding). I knew that once we had obtained a building permit for the single family dwelling, the outbuilding could qualify as a legal temporary dwelling provided it was connected to water and sewage and provided it was compliant with the use, density and siting requirements for dwellings and cottages, which it is.[11] Well prior to making application for a TUP I had partially constructed civil works to service both the single-family dwelling and the outbuilding.

ii. Another option available to me was to define the outbuilding as a single-family dwelling. The outbuilding would in effect be an 'interim' single-family dwelling until such time as the larger single-family dwelling was constructed at which time the outbuilding would become an accessory building. The outbuilding has been designed to meet the definition of an accessory building under the existing land use bylaw but also meets the criteria to qualify as a single-family dwelling. This is exactly the same arrangement I reached with the Islands Trust in November 2008 on our first property.[12] The building as constructed has in-floor radiant heat, polished concrete floors, double-glazed custom wood windows, premium cladding and a steel roof. It is plumbed and wired for a bathroom, kitchenette, cable and high-speed internet. (At the back of my speaking package there are photos of the new building and the interior of the first home which illustrate the planned finishes of the new building)

iii. The third option available to me was to utilize the outbuilding as an Agricultural Use Building. Agricultural use buildings are a permitted structure and use on Rural Residential properties under the existing land use bylaw. Under this scenario the general storage, art studio and home office uses permitted under the TUP might expire in three years but the building itself could continue to legally exist and be used as an Agricultural Use building.

The Trust's solicitor claims I would have to go through a charade[13] for my building to qualify as an agriculture use building yet I have fruit trees and gardening equipment on my property. Indeed, staff acknowledge there is actually no test or design parameters to qualify a building as agricultural. In the case of the building functioning as a single-family dwelling the only change would be the installation of an exhaust fan in the kitchenette, which hardly is going through a charade!

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[11] South Pender Land Use Bylaw, 2003, Section 3.5(2)

[12] November 21, 2008 letter to Cameron Thorn from Trust Planner

[13] Buholzer agrees the zoning on Mr. Thorn's property allows for an agricultural use building but doubts Mr. Thorn's building would qualify as an agriculture use. Buholzer writes, "establishing such as use could put Mr. Thorn to more than a trivial expense in either time or money or both." He also suggests Mr. Thorn would have to go "through the charade of undertaking these (agricultural) activities on the land to maintain the legal status of the building…" Robert Kojima in a May 1, 2013 discussion with Mr. Thorn said the building design did not 'look' like an agriculture use, but acknowledged there are no defined design parameters for an agriculture use building. In terms of 'qualifying as an agricultural use building, Mr. Kojima said the existing LUB does not define a threshold production level of agriculture, or sales value or how the building is used as an agricultural use, except that agriculture must be the primary use.

The key point is that Mr. Buholzer erred in his conclusion that I was uniquely *vulnerable* to the outcome of an LTC decision on storage buildings and therefore had a conflict of interest. In fact, I was uniquely *protected* from the storage building proposal as I had already received all necessary approvals to construct the 566 square foot building to my desired size and design. If the storage building proposal were adopted as proposed by staff, property owners of vacant properties would be limited to constructing small, effective useless buildings of 256 square feet. In terms of a community of interest, I was in an envious position relative to the owners of other vacant properties on South Pender Island.

Evolving Notion of Conflict – Real or Perceived:

The November 23, 2012 Island Trust letter and the initial Buholzer opinion on the subject stated that, "*Mr. Thorn has a conflict of interest*". Months later after meeting with Mr. Thorn who confirmed that he had no personal interest in the outcome of the bylaw amendment regarding storage/outbuildings, Mr. Buholzer writes, " *his intentions are not relevant to conflict of interest analysis. What is relevant is the perception of others...* "

If there were in fact a concern of perceptions the important 'perception of others' would be that of the South Pender community. Notably no member of the APC or anyone else in the community has expressed any concerns of a conflict on my part. Instead, most residents have expressed shock at the accusation of a conflict by the Trust and its lawyer. The perception of a conflict might have had some validity if my comments on the matter of storage buildings / outbuildings were a departure from the previously approved OCP. But this was not the case! I commented on the staff storage building proposal because it was and is a departure from the publicly endorsed and approved OCP. To state as staff has that the storage building proposal is consistent with the OCP is factually wrong and misleading.

Conclusions of a Reasonable Person:

The Trust's solicitor, in making a case for a perceived conflict of interest frequently refers to what a 'reasonable person' would conclude. Determining what a 'reasonable person' would conclude is a subjective exercise, but nonetheless it is worth considering what a reasonable person would conclude in the following:

i. Despite any Island Trust policy extending conflict provisions or impartiality provisions to the APC, despite any training session with the APC on these matters and despite the established case law in *Save Richmond Farmland* regarding APC's and conflict of interest, Robert Kojima stated that it was up to the APC Chair and to me to have recognized that I had a conflict. Would a reasonable person conclude it fair or appropriate for the Islands Trust to hold members of the APC to Islands Trust policies on Standards of Conduct or Impartiality when (a) the policies do not reference the APC and (b) members of the APC were not apprised of, or provided with training or instructions regarding such policies?

ii. I was fully transparent with the Islands Trust concerning my views on the proposed storage building policy. On June 26, 2012 as a resident and property owner I wrote the Trust outlining my concerns regarding the proposed storage building/outbuilding policy. On September 18, 2012 the LTC approved a TUP to construct my outbuilding. If as Chair of the LTC stated[14] mine "*was a clear case of conflict*" and the Trust CAO wrote[15] "*our planning staff are relatively vigilant in regards to any concern that could threaten procedural fairness...*" a reasonable person would conclude that either the LTC Chair or the Trust staff should have contacted me prior to the November 2, 2013 APC meeting to advise me of their conflict standard and advise against participating in discussions on the storage building / outbuilding proposal due to a perception of bias.

Does the Trust have its own Agenda?

There is a strong belief by numerous people on South Pender and on other islands that the Trust has its own agenda and that when it comes to policy development, community consultation is symbolic rather than substantive.

From my own experience your damned no matter how you try to critique the Trust's policy proposals. In June 2012 as a property owner and resident I wrote to staff and the LTC outlining my concerns with the proposed storage building proposal and noted the proposal lacked consistency with the OCP. The letter was respectful in tone and provided a number of recommendations. I never received any acknowledgement or response and the letter was not included in subsequent LTC agendas under public correspondence. In November 2012 as a member of the APC reviewing the policy, I raised the same concerns as I had in my earlier letter.

In the first circumstance my comments were ignored and in the second circumstance those same comments resulted in me being accused of a conflict.

One of our former Trustees has suggested the Trust waved the banner of 'legal opinion' to threaten and silence people with views that did not correspond with staff policy proposals.

Conflict of Interest: Already Addressed?

Some within the Islands Trust may be of the view that this issue was 'addressed' long ago as there were several legal opinions issued and a fair amount of staff involvement on the matter. Notably, the legal opinions have all come from the same lawyer written in defense of the actions of his client! With all respect, staff also have an interest in defending the conflict accusation and the process through which that conclusion was reached.

Consider how the Islands Trust handled this matter, specifically:

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[14] November 23, 2012 email, Chair, LTC to South Pender APC Chair

[15] January 23, 2013 letter, Islands Trust CAO

i. A rush to pass judgment

ii. No opportunity to be heard

iii. A decision to issue the conflict letter using Resolution without Meeting and taking the vote without including the participation of the only local trustee and South Pender resident

iv. A lack of understanding by staff of the provisions under the existing land use bylaw by which the building can legally exist and be used in perpetuity – irrespective of the TUP or any future amendments to the LUB.

I believe the Trust, in retrospect and in the face of widespread criticism, is uncomfortable about this issue and rather than acknowledging an error and commencing an open and engaging discussion on advisory bodies and conflicts of interest, the Trust has relied on their solicitor to say the issue is 'addressed' such that the matter can be forgotten and go away.

PART 3:

Recommendations and Steps Forward:
The conflict of interest claim against me has been controversial and confusing in three aspects. One, the exclusionary process through which the Trust determines the necessary 'facts' conclude a conflict, and the lack of any opportunity for the accused to be heard prior to the decision being rendered; two, accusing an APC member of a conflict in the absence of any conflict of interest regulations applicable to the South Pender advisory planning committee or any training on conflict of interest[16]; and three, applying conflict of interest rules for *decision makers* to *recommendation makers*.

At the same time my decision to defend myself against the conflict accusation has brought much needed light onto the topic of conflict and advisory bodies. If I had not obtained expert legal advice, and if the Trust letters and associated Buholzer legal opinions were not critically examined, the interpretations of law Buholzer used to conclude a conflict would have become a precedent and set a new standard for advisory bodies. I was unwittingly a test case regarding advisory bodies and conflicts of interest and have paid a heavy price - both financially and in time spent - to defend myself.

More than a year ago in correspondence to me the Island Trust said it regretted that "*current policies did not provide a means to handle this matter differently*" that "*we will*

[16] Buholzer writes, Mr. Thorn commented "about the lack of orientation for APC members in procedural fairness matters, his point being that it was unfair of the Islands Trust to simply assume that he should have known not to participate in the APC discussion of these bylaw amendments…It is hard to find fault with the criticism in that the APC bylaw is not specific about what procedural fairness requirements apply to APC deliberations and APC members apparently had no orientation on this topic."

consider recommendations to the Islands Trust Council that would address the needs of advisory group members" and "*we will support development of a more helpful process for advisory group members including a review of conflict of interest topics.*"[17]

I am curious as to what, if any of these steps, have been taken by the Trust? I am also curious as to what were the current policies that restricted the Trust from handling this differently.

Nonetheless, I have some recommendation that can move us to move forward on this issue:

i. Give those accused of a potential or perceived conflict an opportunity to be heard. Get all the facts before rushing to a judgment. Do not adopt Buholzer's recommendation to amend the Trust policies to ensure an Opportunity to be Heard cannot apply in determination of a conflict of interest;

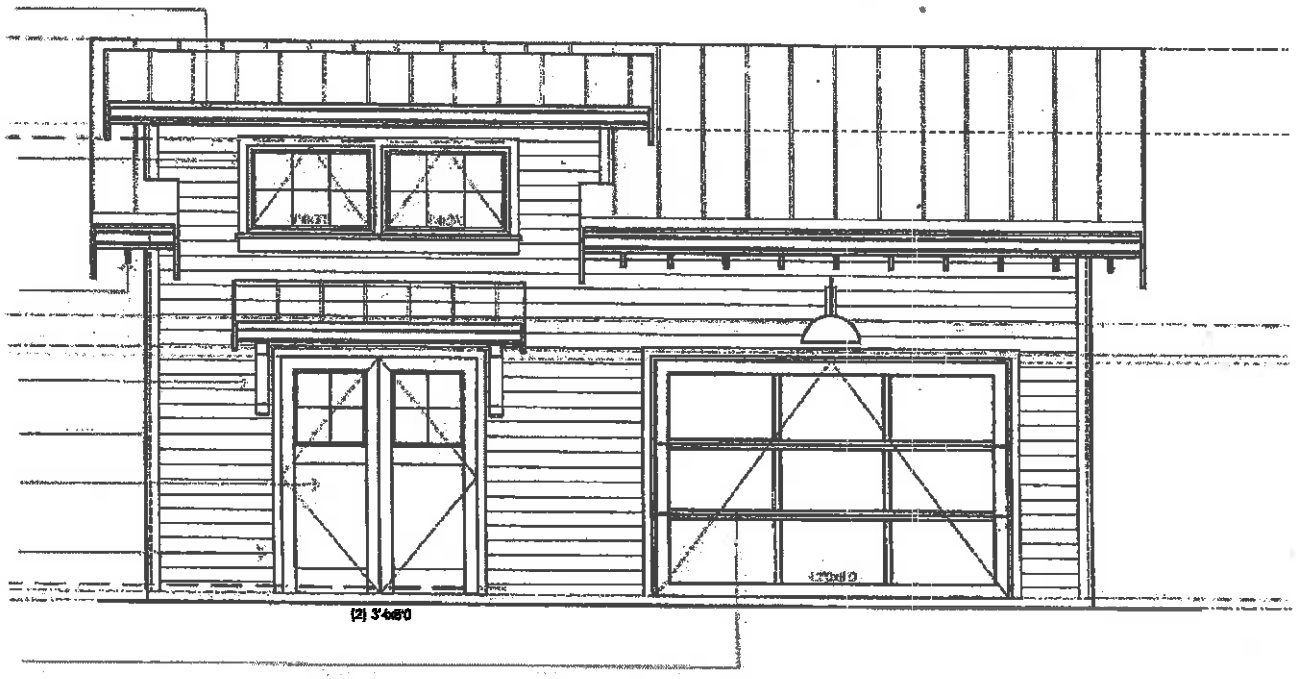
ii. Develop a thoughtful consistent and fair policy on conflict of interest for advisory bodies; provide training on the policy to advisory bodies. Don't hold advisory bodies to a standard to which they have no prior knowledge;

iii. Develop clear conflict guidelines tailored for advisory bodies in small communities where there is a high probability that a member of an advisory body is also a property owner who may at present or in the future be undertaking activities to their property that would be subject to one or more proposed policies that the advisory body has been asked to review;

iv. Engage a lawyer other than Bill Buholzer and Young Anderson to assist and advise the Island Trust in the development of a policy and guidelines for advisory bodies and conflict of interest. That same lawyer should also be asked to review the circumstances and process used by Mr. Buholzer to conclude that I had a conflict on interest;

v. Citizens vest faith in their government to act honourably and to be transparent. Citizens lose faith in their government when it insists on 'maintaining face' and holding onto a position even when an error has occurred. Acknowledging errors that occur and taking steps to rectify them, will gain far more respect from the public than being seen to circle the wagons.

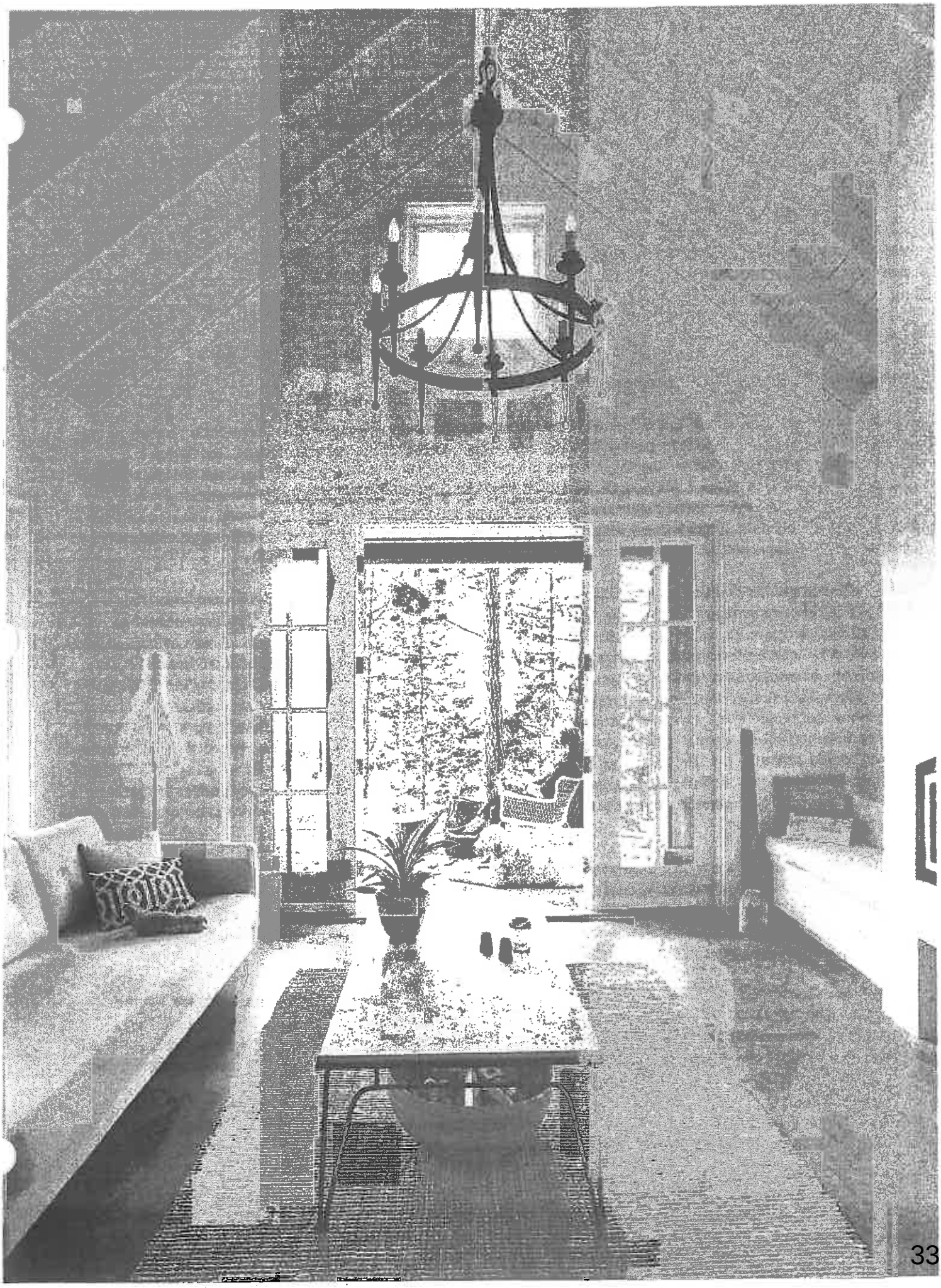
[17] February 21, 2013 letter, Chair, Islands Trust Executive Committee



south elevation

REVISIONS

issued for client review	12.08.06
issued for application	12.08.20
issued for building permit application	12.09.25



Sharon Lloyd-deRosario

Subject: FW: Proposed Land Use Bylaws

Importance: High

-----Original Message-----
From: Wendy Scholefield [mailto:wendy
Sent: January-28-13 1:28 PM
To: Liz Montague; Mike Jones; Ken Hancock
Cc: Buffy Paterson; Andrea Pickard
Subject: Proposed Land Use Bylaws

To the South Pender Local Trust Committee,

I have received my Islands Trust Newsletter and I am disturbed by the way that some of the information has been presented. For example, in providing information about Marine Geothermal Energy, you indicate that these geoexchange systems would be allowed in all Marine zones except for the National Park Marine Zone. Since few people are familiar with zoning, I think it would have been helpful if you had indicated that these units would be allowed in Marine General , Marine Commercial and Marine Protected zones so that people could discuss and consider whether this technology is , in fact, appropriate in all of our marine zones. I am personally opposed to allowing anything in a Marine Protected Zone, despite any manufacturer's assurances of safety.

I am also concerned that the section named Storage (Accessory) Buildings is completely misleading and does not indicate that there are a range of choices that can be made regarding the construction of outbuildings prior to the construction of a residence. After quoting the change to the OCP, you have written that "On lots where no house has been built yet, owners are currently not allowed to construct a storage building." You fail to mention that owners are currently not allowed to build any accessory or outbuildings. I believe that it would have been responsible to indicate the options available when changing the Land Use Bylaw. I believe that it would be useful for the community to have a discussion about the pros and cons of allowing outbuildings and what kinds of outbuildings would be permitted prior to the construction of a residence. If you are, in fact, recommending that only storage sheds be allowed, why not indicate that that is what you are proposing and why that is your preference, rather than pretending that a storage shed is the only option available. I think that the LTC should provide full information to the people of South Pender so that they can provide you with their views on the subject. Then you can make the decision that you believe to be in the best interests of our community.

However, I shouldn't have been surprised by the information that was presented in the newsletter. You referred these draft amendments to the volunteers who sit as advisors to you on the Advisory Planning Commission. When they brought their concerns regarding the proposed amendments and the process being used by the LTC, you chose to chastise them and to direct them to comment only on those issues referred to them. Some of the criticism verged on the personal, rather than on professional considerations.

When that didn't work and the APC was still expressing concerns about what the LTC was doing with regard to the amendments, you offered a "re-education" process with three Islands Trust Staff. Presumably the purpose of this exercise was to ensure that the APC and the APC chair restricted their advice to what the LTC wanted to hear . The APC did not feel the need for an education process regarding their roles and responsibilities and declined the offer. It might be more useful if the Trustees and the Chair of the LTC reviewed their own roles and responsibilities.

Finally, when the APC did its work without the guidance of staff, you waved the bogus banner of "legal opinion" to further threaten and silence people with views that did not correspond with your own.

I frankly cannot understand this bullying behavior. People volunteer their time in order to part of their community planning process: they put in long hours of reading and research and try to put forward their views so that they will be considered by the LTC in the decision-making process. The reality is that if the LTC did not like, or approve of, or want the views of the APC, you could have, in the first place, not referred the issues to the APC, and , in the second place, you could have simply thanked the APC for their advice and gone on and decided on whatever changes to the LUB that you believe are best. The whole thing is overkill.

But it is worrisome. We live in a world where there are constant concerns expressed about the lack of political participation by people at the national, provincial and local levels. Voter numbers are down. When this kind of behavior is directed towards people who are participating, who are prepared to put in time to have their voice heard, the result can only be further apathy.

I am sickened by what has transpired over the last few months on South Pender. And it appears that the bureaucratic shuffling of responsibility will continue. And the only result will be that the Trust office will indicate that they need more staff to handle these small island yokels who think they know more about their island than the professionals do. And the bunker mentality of the Islands Trust will further alienate the public on our islands.

Wendy Scholefield

cc. APC chair for forwarding to APC members
Andrea Pickard, Planner

From:	Wendy Scholefield
To:	Liz Montague; Mike Jones; Ken Hancock
Cc:	Andrea Pickard
Subject:	Proposed Amendments - South Pender Land Use Bylaw
Date:	Thursday, August 08, 2013 8:38:40 PM

To the South Pender Local Trust Committee:

I am writing with regard to the proposed amendments to the South Pender Land Use Bylaw. In preparing my submission, I went to the South Pender Local Trust Committee website to read the minutes of the Community Information Meeting and of the Local Trust Committee meeting held in June 2013. The new website is extremely difficult to navigate, particularly in order to find minutes of LTC meetings. I was unable to locate minutes for either of these gatherings. As there is a standing resolution of the SPLTC that the minutes be prepared within a prescribed period of time, I assume that the minutes are finalized as it is now two months since the meetings were held, but I was unable to locate them.. (Since the information on standing resolutions is also not readily available on the website, I can't say with certainty what the timeframe is.) I was also unable to find minutes or agendas of any of the earlier meetings of the SPLTC. If they are there, they are certainly not easy to locate. In any event, I was disappointed that I was unable to read minutes of the June meetings as I would then have a better understanding of the discussions that have taken place with regard to the proposed amendments -- both the items presented at the Community Information Meeting and the subsequent discussion by the LTC of the points raised by the Community prior to your moving to First Reading of the proposed amendments.

I regret that the South Pender Local Trust Committee has decided not to consider the Land Use Bylaw in its entirety during this process. I am concerned that funds allocated to South Pender Island for the Official Community Plan Review and Land Use Bylaw Update will not be renewed and we will not have completed a Land Use Bylaw update. In addition, I believe that some of the changes proposed would be best looked at in context. For example:

- **the change in maximum height of outbuildings**. I believe that if the LTC decides to increase the height of outbuildings, you should also look at the possibility of allowing the "cottage" to be built above an outbuilding. This issue was brought to my attention by a person who was interested in making a workshop with a "cottage" living space above. I'm sure that there are others who might consider this alternative if it were available. This approach would allow for a smaller footprint and more effective use of heating resources.

I am sure there are many other examples of changes that would benefit from a more holistic review of the Land Use Bylaw. I also believe that the Land Use Bylaw would be improved through a rewrite using Plain Language so that the terminology and the intent of the various regulations would be more accessible to the general public. Just look at the definitions for "accessory" and for "building" and you will see that it would be helpful to make improvements to the language so that people can understand what is intended.

With regard to the proposed amendments:

I am in support of increasing the maximum height of outbuildings and the change to

measure square footage from interior walls.

I question why the "attached" dwelling amendment is still on the table as I understood that at the earlier Community Information Meeting people in the community wondered at the purpose and intent of this change. I am still not clear on why we would want to attach dwellings, particularly as the LTC has decided not to limit house size. I am not necessarily opposed to this, I just don't understand its purpose. I also have concerns about the change in setback for a pump/utility house. I am not certain what the impact of this change will be on people who apply for a building permit - will the pump house have to be moved to reflect the new setback before a building permit is issued? I am also concerned about the regulation regarding solar collectors as it seems that a person would be allowed to build a tall solar collector that might be in the view sightline of their neighbour -- I don't know what the discussions were around this change so perhaps you could give some consideration as to how best to ensure that a neighbour's view is not negatively affected by a solar collector. I am in support of having solar collectors, but wonder at what the impact of the siting might be.

I do not support the creation of a new category of outbuildings, that is, a storage shed. I don't understand why the staff is so interested in creating a new category of building; it seems to me that we should instead be reducing the types of buildings - residential and non-residential. The change in the OCP was intended to make it possible for a person to build a garage, a workshop, a garden shed, or other building prior to constructing a residence; while there may be fewer people who construct their own residence, this change was made in order to make it possible for someone to have a place to stay as they undertook construction, not to encourage multiple buildings of various types on a lot.

Further Review of the Land Use Bylaw

As the LTC moves to the next step of the process, I would encourage you to look at maximum square footage of outbuildings (or non-residential buildings). Section 3.5.(4)a. At the current time, lots of one acre or less are allowed a total area of 750 square feet and those of 1 acre to 5 acres are allowed 1000 square feet. I believe that these maximums need to be reviewed and possibly expanded. Many more people are using their properties for gardens (requiring a garden shed) or have activities that necessitate a workshop. It is difficult to accommodate these buildings if a lot also has a garage. In addition, for lots over two acres, a cottage of 600 square feet is also permitted. I would suggest combining the 600 square feet and the 1000 square feet maximums so that a person may choose how best to use their allocation of square footage. As indicated above, I submit that some thought should be given to allow a "cottage " space to be constructed above an "outbuilding." I note that at the first Community Information Meeting on the Land Use Bylaw it was suggested that lot coverage, rather than square footage, should be the limitation placed on a property owner. I wonder if the Trustees gave any consideration to this idea or discussed what would be the appropriate percentage of lot coverage on South Pender, which would still retain the rural character of the Island and would require less detailed regulation.

I would also recommend that , for clarity and to ensure continuity of interpretation of the bylaw with regard to the development, the sections of the Land Use Bylaw that apply to Poet's Cove Resort be retained in their entirety so that there is no confusion as to what is allowed on the site.

Gmail

Re: South Pender Workshop

Paul Petrie <pmpetrie@[illegible]> Sun, Apr 14, 2013 at 11:14 PM
To: "Eli Mina (eli@elimina.com)" <eli@elimina.com>
Cc: Ken Hancock <khancock@islandstrust.bc.ca>, Liz Montague <lmontague@islandstrust.bc.ca>, Mike Jones <mjones@islandstrust.bc.ca>, Buffy Paterson <buffyonpender[illegible]>, Jane Perch <pacific.cove@[illegible]>, Ron Henshaw <ronhenshaw2003@[illegible]>, "dspaldin[illegible]" <dspalding[illegible]>, "bonpender[illegible]" <bonpender[illegible]>, Cameron Thorn <cameron@c[illegible]>, Andrea Pickard <apickard@islandstrust.bc.ca>, Carmen Thiel <cthiel@islandstrust.bc.ca>, Robert Kojima <rkojima@islandstrust.bc.ca>

Hello Eli, Trust colleagues and staff,
Again my apologies for inadvertently sending a partial unedited draft e-mail earlier today. My intent at the time was to save it, not send it. My more detailed views are conveyed in the attached note. I would welcome any comment, critique or suggestions regarding my views. The basis for my views is rooted in my 35 year involvement in the administrative justice field focussing on Workers Compensation appeals. I have previously served as the Deputy Chief Appeal commissioner of the WCB Appeal Division. I was the founding vice President of the BC Council of Administrative Tribunals and served as chair of BCCAT's education committee where I developed course curricula on a number of courses including Foundations of Administrative Justice, Conducting Fair Hearings, etc. I also served two terms as director of the Council of Canadian Administrative Tribunals. My views based on my experience in the Administrative Justice field and are presented as a strong supporter of the Island Trust mandate who would like to see the Trust do the right thing in resolving the conflict of interest/ procedural fairness that was addressed at the April 9th workshop.
Paul Petrie

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Mr. Eli Mina,
Please accept my apology for my untimely departure from the workshop in the middle of the important discussion regarding procedural fairness. I had indicated at the beginning of the workshop that I needed to catch the 1pm ferry to Vancouver to meet a work commitment at the Workers Compensation Appeal Tribunal in Richmond. The main reason I came to the workshop was to ensure that the rules of procedural fairness were supported by and observed by the Islands Trust. Unfortunately the issue of procedural fairness was just coming to completion at 12:40 in the last few minutes before I had to dash to catch the ferry. In my rush to have my say on the issue, I stated my view without a sufficient explanation to support it. More importantly, having given my view, I should have stayed to listen to the views of others and to answer any questions regarding my view.

I was peripheral to the issues that occurred in the September referral of proposed bylaws to the APC. I had accepted a contract from the Manitoba Government commencing October 29th and was unable to attend the Nov. 2nd APC meeting. I sent a submission outlining my preliminary views on the referral to my APC colleagues before I left for Winnipeg, but did not otherwise participate in the proceedings.

However, as a member of the 2012 APC I received a personal copy of the November 23, 2012 letter from the LTC Chair addressed to the chair of the APC and to Mr. Thorn. The LTC chair's statement - "Mr. Thorn has a conflict of interest" came as a complete surprise. It was a confusing letter. It stated the "statutory conflict of interest provisions are not applicable to Advisory Planning Commission members ...," but somehow they seemed to apply to Mr. Thorn as an APC member. How that apparent contradiction was resolved was not explained in the letter. The letter relied on the requirement that the APC chair conduct the APC meeting according to the rules of procedural fairness. The LTC Chair's letter appeared to suggest the APC chair had conducted the November 2, 2012 meeting contrary to the rules of procedural fairness because the LTC Chair declared that Mr. Thorn had a conflict of interest that was only "discovered" 3 weeks after the APC meeting had occurred.

My main concern is the November 23rd decision was apparently made without notice to Mr. Thorn advising him there was a perceived conflict of interest issue involving him. Nor was Mr. Thorn given an opportunity to be heard before the decision was pronounced as required by the rules of procedural fairness. My initial take on the November 23rd decision letter was that the APC chair was being accused of violating the rules of procedural fairness at the November 2nd APC by not anticipating the November 23rd decision and that she had allowed an APC member with an undiscovered conflict of interest to participate in the meeting. Somehow the APC chair was supposed to have anticipated the LTC Chair's somewhat surprising and seemingly contradictory decision. It seemed to me that we were moving into Lewis Carroll territory....

What the November 23rd decision failed to illuminate is why the APC chair was supposed to somehow anticipate this declaration that Mr. Thorn had a conflict of interest. The Trust planner who requested the legal opinion on which that decision was based, was fully aware Mr. Thorn had received a temporary use permit and was aware Mr. Thorn was a member of the APC but had not advised the APC chair of a potential or perceived conflict of interest before the November 2, 2012 meeting. If it wasn't apparent to the planner that Mr. Thorn had a perceived conflict of interest before the November 2nd meeting, how did it somehow become apparent that he had a conflict three weeks after the meeting?

The main problem in this situation, however, is not the planner's apparent difficulty in not perceiving a possible conflict of interest when the bylaw issue was referred to the APC; the main issue is whether the Islands Trust Council stands behind their policy on "Administrative Fairness Principles" that sets out the process of "Fair Decision Making." Section C 3.4 of that policy requires Trustees and staff to ensure that:

> "Parties whose interests may be affected by a decision should be given a reasonable opportunity to provide written or verbal information in support of their position."

That policy is consistent with the legal obligation to provide a fair hearing. The right to a fair hearing requires that individuals should not be penalized by decisions affecting their rights or legitimate expectations unless they have been given prior notice of the case, a fair opportunity to answer it, and the opportunity to present their own case. The mere fact that a decision affects rights or interests is sufficient to subject the decision to the procedures required by natural justice. The evidence, as I understand it, is that Mr. Thorn was not given a fair hearing before the LTC Chair's preemptive decision was made.

What prompted the LTC or at least a majority of the LTC to pursue this issue 3 weeks after the meeting? And why wasn't one of the elected South Pender Trustees allowed to participate in the November 23rd decision that was made by the unusual use of "resolution without meeting" on a sensitive personal and legal issue.

As I indicated at the outset of the April 9th meeting, the strength of the Island Trust is that it provides the community an opportunity to express our views without being filtered or inhibited, a value I strongly support. I also expressed my concern that there is a growing perception in our community that in the last few years we have moved toward a more centralized control of our LTC by the Trust executive and staff and the citizen's voice is not always sought and in some cases not welcomed. The APC's recommendation that the proposed bylaw changes be presented to the public before proceeding further, appears to have upset some members of the LTC. From the sequence of events, it appears to me that it was the APC's recommendation that initiated the events leading to the November 23, 2012 decision from the LTC Chair.

I have read the Trust Executive's February 21, 2013 letter which states that the Executive Committee is satisfied that the "advice" provided in the LTC Chair's November 23, 2012 letter was "appropriate." I think it is important to recognize that the November 23rd letter conveyed a "decision" reached after a resolution without meeting by the LTC Chair and one Trustee, but did not include the second Trustee. To try to construe the November 23rd decision as "advice," doesn't change the fact that it was a decision, one that the Executive Committee continues to consider appropriate.

The issue is not whether Trust legal staff needed "...additional information information to provide advice on this situation;" as suggested in the February 21st letter to Mr. Thorn - the issue is whether Mr. Thorn should have been appraised of the advice Trust counsel provided to the LTC Chair and accorded a fair opportunity to answer the Trust's position and to present his case BEFORE a decision was made. This failure to provide Mr. Thorn with a fair hearing before issuing the November 23rd decision is the fundamental flaw with the LTC Chair's premature and preemptive decision. The suggestion that offering Mr. Thorn an opportunity to present his view of the decision after the decision was made, without first removing the decision, reinforces the error of failing to provide a fair hearing before the decision was rendered.

I read the views conveyed to the Trust by Mr. Thorn's legal counsel, and I did not see that the Trust directly addressed and answered those issues.

I note the Executive Committee's statement that they understood "...how the process would have felt unfair..." to Mr. Thorn. However, it was not Mr. Thorn's "feelings" about what is fair and unfair that are in question; it is, in my view, the failure to give Mr. Thorn a fair hearing contrary to the legal rules of natural justice and in violation of the Trust's stated policy that is at the heart of the issue. Likewise, it is not whether Mr. Thorn "feel(s) this has had negative implications for (his) reputation...." The impact of the public declaration that Mr. Thorn "...has a conflict of interest." without giving him a fair hearing before that decision was made clearly impacts his reputation given his professional involvement in land development.

What remains particularly puzzling is how the Trust staff who were fully aware of Mr. Thorn's involvement with the bylaw issue did not perceive a potential conflict of interest before the November 2nd meeting, but moved quickly to seek legal advice in pursuing a charge of conflict of interest after that meeting. The conflict of interest issue did not arise until after the November 2nd meeting where the APC declined to invite staff to the meeting and referred the bylaw issue back to the LTC without endorsing the proposed bylaws. The LTC Chair's preemptive decision followed closely on the heels of the APC chair's fairly direct November 21st email that questioned whether the input of community members was appreciated or valued by Islands Trust staff and the Chair of the LTC. From the documents that I read, it appears that the preemptive November 23rd decision advising the APC chair that she had not followed the rules of procedural fairness in allowing Mr. Thorn to participate in discussions was a reaction to a communications problem and not a full and fair consideration of the conflict of interest issue. The fact

that the November 23rd decision was rushed through without one of SPI's elected Trustee's participating in the resolution without meeting reinforces that perception.

My purpose in expressing my views on this important issue is not to continue to prolong the conflict of interest issue, that issue has already taken up too much valuable Trust staff time, and has distracted the LTC from more important issues. The suggestion at the April 9th meeting that Mr. Thorn simply 'set the issue aside' and 'move on' will not resolve the issue. Sweeping the elephant under the rug will not make the issue go away, and may well exacerbate it. It seems to me that the appropriate next step here is to set aside the flawed November 23rd decision. It would also be appropriate for the Islands Trust to consider the appropriate response to correct the injustice to Mr. Thorn. That however is a matter between Mr. Thorn and the Trust.

Thank you for the opportunity to more fully express my views on this important matter. I hope that you will have an opportunity to consider these views in your report to the Trust.

Paul Petrie
April 14, 2013

BRIEFING

To: **TRUST COUNCIL** **For the Meeting of:** June 18-19, 2014

From: Linda Adams
Chief Administrative Officer **Date:** June 3, 2014

SUBJECT: STATUS UPDATE: PROVINCIAL ANALYSIS OF IMPACT ON ISLANDS TRUST OF POTENTIAL SALT SPRING ISLAND INCORPORATION

DESCRIPTION OF ISSUE: Background and status regarding a study by the Ministry of Community Sport and Cultural Development to assess the impacts on the Islands Trust, in the event of incorporation of Salt Spring Island.

BACKGROUND:
In February 2012, Salt Spring Island's three locally-elected representatives (two local trustees and the electoral area director) wrote to the Minister of Community, Sport and Cultural Development to request a governance study for Salt Spring Island.

In October 2012, Minister Bill Bennett, then Minister of Community Sport and Cultural Development, announced the ministry would provide the Salt Spring Island community with funding ($60,000) and staff support for a first phase of a governance study.

Salt Spring Island Governance Study
A Salt Spring Island Governance Study Committee was formed in late 2012 and concluded its work in November 2013. After an investigation into the current state of governance on Salt Spring Island, it recommended to the minister on November 29, 2013 that a full municipal incorporation study should be initiated to consider the implications of municipal incorporation of Salt Spring Island. Until a full study is undertaken, the community will not have an analysis of the costs associated with incorporation, in comparison with its current taxation structure.

To date, the minister has not announced a decision in response to the committee's request and full incorporation study has not begun. While ministry staff have previously indicated that they believe incorporation studies should ideally take place within one (local government) term of office, the ministry has not given any formal indication as to whether such a study would be funded or (if so) when it might begin.

Provincial Analysis of Impact on Islands Trust (re potential Salt Spring Island incorporation)
When funding for the first phase of the Salt Spring Island governance study was announced in October 2012, the minister also announced that he would allocate $20,000 to undertake a second study ('Islands Trust Impact Analysis' – ITIA) to analyze the potential impact on the Islands Trust, should Salt Spring Island eventually incorporate as a municipality. This second study, managed by the province, is loosely modeled after a similar study that was completed in 2000, entitled '*Island Municipality Transition Strategy*' and available (without appendices) on the Islands Trust website.

In 2000, the *Island Municipality Transition Strategy* considered the implications of the then-recent Bowen Island incorporation and examined various scenarios if Salt Spring Island, Gabriola and/or another major island also incorporated. It assessed projected changes to Islands Trust revenues and expenditures in the event of incorporation; it also identified options for addressing the implications through changes to taxation, staff and service levels. While the strategy primarily focused on financial matters, it included a brief discussion of the less-tangible implications of major island incorporation.

In August 2013, the Ministry of Community, Sport and Cultural Development (through the Capital Regional District, which is handling administrative matters) engaged with Urban Systems to undertake the Islands Trust Impact Analysis (ITIA). The study is being managed by ministry staff, who developed the Terms of Reference for the ITIA (included with this briefing as Attachment A). The Terms of Reference were developed with input from the Islands Trust Executive Committee and Islands Trust senior staff. While the terms of reference initially indicated that the analysis was to be completed by March 31, 2014, the ministry later amended the completion date to September 31, 2014. The study will have little relevance unless/until the Minister approves a full incorporation study for Salt Spring Island. If such a study proceeds, the ITIA will be of interest to island communities. It would also inform the ministry's and Trust Council's preparations for a potential 'YES' vote, if an incorporation referendum is held.

Since initiation of the ITIA, Islands Trust senior staff (CAO and Director of Administrative Services) have responded to requests from Urban Systems for various types of information, work that is anticipated in Trust Council's Strategic Plan for 2011-2014 (Section 6.3). The information provided primarily relates to Islands Trust finances and existing arrangements regarding Bowen Island Municipality, such as the current protocol agreement and the methodology for calculating the municipal tax requisition. On May 31, 2014, Islands Trust senior staff met with Urban Systems representatives to provide further information. Trust Council's *Policy 7.2.v – Incorporation Study Cost Allocations* provides some guidance in how staff should provide financial information for these purposes.

The Terms of Reference for the ITIA indicate that the consultants will present preliminary findings of their analysis/report to the Ministry and to the Islands Trust for comment prior to finalization and release to the public. Islands Trust senior staff have suggested to the Ministry that the consultant's findings should be presented to the Financial Planning Committee in August 2014, to the Islands Trust Council in September 2014 and at an Islands Trust staff meeting in September 2014. This would provide an opportunity for Islands Trust consideration and feedback before the ministry finalizes the analysis and makes it public.

At this time, staff understand that the consultants may be prepared to provide a draft of the ITIA to an *in camera* meeting of the Financial Planning Committee in August 2014 and to an *in camera* session at Trust Council's September 2014 meeting. This briefing is intended to give Trust Council some background information at its June 2014, in anticipation of receipt of the draft ITIA report.

Also provided for information is a preliminary process summary (Diagram 1) that illustrates staff's general understanding of the way the ITIA relates to the Salt Spring Island Governance Review. The dates suggested are illustrative only and subject to future decisions, such as those made by the provincial government, or those that could follow from community consultations and referenda.

FOLLOW-UP:
Receive briefing for information.
No other follow-up recommended at this time (Executive Committee has tentatively scheduled an *in camera* session at the September 2014 Trust Council meeting for a consultant presentation of the ITIA report and the consultants have indicated their availability)

ATTACHMENTS:
1. Terms of Reference – provincial Islands Trust Impact Analysis – June 2013
2. Amendment to Terms of Reference - March 2014.

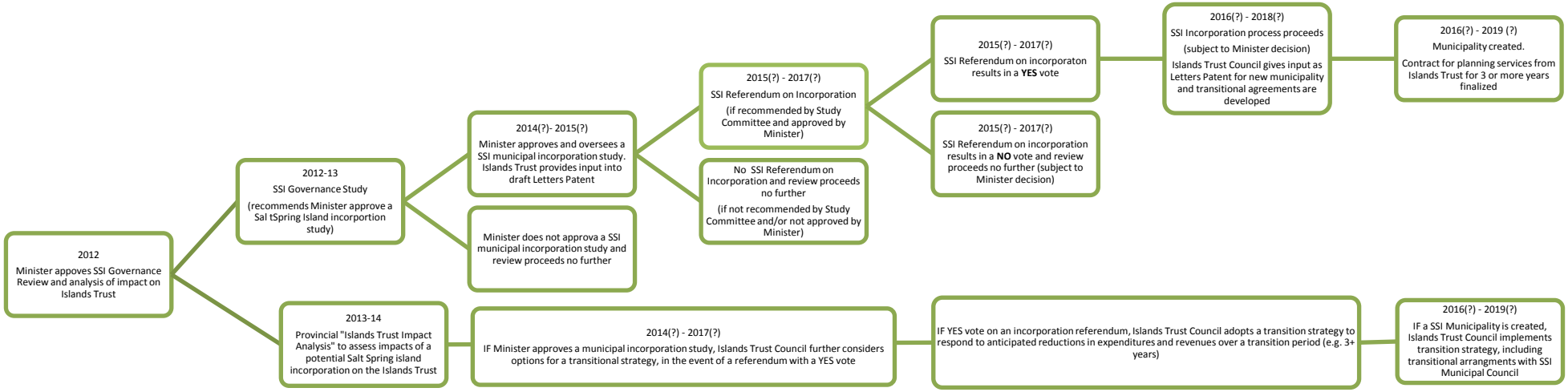
Prepared By: Linda Adams, Chief Administrative Officer

Reviewed By/Date: C. Shelest, Director of Administrative Services
D. Marlor, Director of Local Planning Services
Executive Committee – June 3, 2014

Chief Administrative Officer

Diagram 1 – Salt Spring Island (SSI) Governance Review and Provincial Analysis of Impact on Islands Trust General Process Summary to Illustrate Relationship of Studies

(**NB** dates are illustrative only and subject to future provincial or community decisions and activities)



June 2013

Islands Trust Impact Analysis
Terms of Reference
Update Islands Trust: Island Municipality Transition Strategy (October 2000)

CONTEXT

The Islands Trust was created by provincial legislation in 1974. The object of the Trust is to preserve and protect the Trust area and its unique amenities and environment for the benefit of the residents of the Trust area and of British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the government of British Columbia.

Salt Spring Island is the largest and most populated island within the Trust Area at 19,663 hectares and approximately 10,300 people. With the largest single tax base, Salt Spring Island is the largest contributor to the funding of Islands Trust operations.

Bowen Island Municipality incorporated on December 4, 1999 and is the only island municipality within the Trust Area. Around that time, residents of other islands within the Trust Area (Salt Spring and Gabriola Islands) also studied and considered municipal incorporation. Due to the interest and potential for other island municipal incorporations, the provincial government and Islands Trust recognized the need for an organizational stability and adaptation strategy for the Islands Trust. Urban Systems worked with the Islands Trust and Ministry and developed the Island Municipality Transition Strategy in October 2000.

Accounting Methodology:

Since 2000, the Islands Trust has changed its cost accounting methodology. The benefit of this change allows for more detailed and accurate allocation information about each local trust area within the Trust Area, than was available in 2000.

Salt Spring Island Governance Study:

On October 5, 2012, grant funding for a Salt Spring Island governance study was approved. Because of the complex history of governance on Salt Spring Island, it was determined that a phased study approach would be undertaken. The purpose of the governance study is to engage the Salt Spring Island public in a review of all governance structures on the Island and to generally outline the differences between rural and municipal local governments. The governance study will not conclude with a referendum.

A steering committee of 10 residents and the three local elected officials (1 director, Capital Regional District; 2 local trustees, Islands Trust) are in the process of selecting a consultant to undertake the study process. Once the study is complete, the steering committee will make a recommendation about whether or not there is community interest in proceeding to a second phase, a municipal incorporation study.

Islands Trust Impact Analysis

In addition to reviewing the current state of governance on Salt Spring Island, the first phase also includes an opportunity to examine the impacts of municipal incorporation on the Islands Trust. The

steering committee has no role in assessing the potential impacts of municipal incorporation on the Islands Trust.

PURPOSE

Update the Island Municipality Transition Strategy (Impact analysis)

The purpose of updating the impact analysis is to examine the potential impact of municipal incorporation of Salt Spring Island on the Islands Trust organization in relation to fiscal stability and organizational adaptation. That is, the transition strategy will identify how the Islands Trust will continue to provide community planning and regulate development on unincorporated islands within the Trust Area and continue to support the work of the Islands Trust Council and the Trust Fund Board. The analysis will identify specific impacts to service levels, budget, and taxation of all local trust areas within the Trust Area and help determine appropriate mitigation action if required should Salt Spring Island incorporate as an Island municipality in the future.

SCOPE OF IMPACT ANALYSIS

Tasks:

1. The impact analysis will consider the impacts to the Islands Trust organization should Salt Spring Island incorporate as a municipality. For clarity, the impact analysis will not consider the incorporation of other islands within the Trust Area. The analysis will:
    a. Obtain revenues and expenses received from Salt Spring Island operations from the Islands Trust accounting records and financial information.
    b. Examine the impact of the removal of:
        i. Tax revenues at the current rate from Salt Spring Island and
        ii. Salt Spring operations from the Islands Trust budget, including indirect support provided through the management and administration budgets.
    c. Identify costs that could be reduced or eliminated, e.g. staff positions, facilities, or services, as well as other costs that could be reduced or eliminated.
    d. Identify scenarios that could manage the tax impact on unincorporated islands while maintaining an acceptable level of service.

2. The impact analysis will review the impacts of the Bowen Island Municipality incorporation on the Islands Trust organization and consider how that analysis informs predictions regarding a potential Salt Spring Island incorporation. What were the financial, service, taxation and other relevant implications?

3. Determine if the assumptions built into the 2000 study are appropriate or if a different approach could be used:
    a. Three-year transition period where a newly incorporated island municipality would contract with the Islands Trust for its planning service.
    b. If Islands Trust staff were transferred to the municipality describe how union agreements would be managed? E.g. current labour law.
    c. Determine any implications to the Islands Trust provincial grant if Salt Spring Island incorporates as an island municipality. E.g. Islands Trust receives a grant similar to regional district basic grants.

d. Review the methodology used to determine municipal contributions to the Islands Trust (section 49 of the *Islands Trust Act*), e.g. cost of operations of Trust council and executive committee and cost of administrative operations of the Trust fund board.

4. How could the transition phase and transfer of services from the Islands Trust to the municipality be managed? What impacts could this phase have on :
    a. Staff retention?
    b. How could the Islands Trust best prepare itself for the transition?
    c. Should there be a greater use of special property tax levies on individual local trust areas?
    d. How could the overall impact on the strength, durability, and resilience of the organization be handled?

CONTRACTOR RESPONSIBILITIES

5. Urban Systems will be responsible for conducting all research, field work, documentation and other investigations necessary to complete the impact analysis. Urban Systems may use subcontractors familiar with the Islands Trust to assist with the work.

6. Urban Systems will provide draft copies of reports to the Islands Trust and the Ministry of Community, Sport and Cultural Development for comment before the report is finalized.

7. The Capital Regional District will pay Urban Systems the approved grant amount. Urban Systems will be responsible for paying any subcontractors.

8. The update of the Islands Trust impact analysis should be completed by December 31, 2013.

PROCESS

9. Draft terms of reference will be provided to the Chief Administrative Officer (CAO) of the Islands Trust for comment prior to finalization.

10. The primary Islands Trust contact for the consultant is the Chief Administrative Officer. The CAO liaises with the Islands Trust Executive Committee and Islands Trust Council as appropriate.

11. The preliminary findings of the analysis/report will be presented to the Islands Trust and the Ministry for comment prior to finalization and release to the general public.

12. Public communications regarding the release of the final report will be coordinated between the Ministry and the Islands Trust.

THIS MODIFICATION AGREEMENT dated for reference the 14th day of March, 2014.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the Minister of Community, Sport and Cultural Development (the "Province")

AND:

The Capital Regional District (CRD) (the "Recipient")
for the Islands Trust Impact Analysis Project No. 51RS1303

BACKGROUND

A. The parties entered into an agreement dated for reference the 7th day of March, 2013 (the "Agreement").

B. The parties wish to amend the Agreement as set out in this Modification Agreement.

NOW THEREFORE, in consideration of the sum of One Dollar and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party, the parties agree as follows:

1. The Completion Date in section A.3 of Schedule A of the Agreement is amended from March 31, 2014 to September 30, 2014.
2. This Modification Agreement may be executed in counterpart by a separate copy of this Agreement being executed by each party and when so executed and delivered to the other party by a method provided for in section 29 of the Agreement, shall constitute one and the same agreement.
3. The Agreement, as amended by this Modification Agreement, is ratified and confirmed.

SIGNED AND DELIVERED on the 14 day of March, 2014 on behalf of the Province by its duly authorized representative	**SIGNED AND DELIVERED** on the 14 day of March, 2014 on behalf of the Recipient by its duly authorized signatory
Signature: X	Signature: X
Print name and title: Gary Paget Acting ABM, Local Government Division	Print name and title: **Robert Lapham** **Chief Administrative Officer**

AGREEMENT AUTHORIZATION

	Initial	Date
Content		03/14/14
Legal Form		03/14/14
Authority		03/14/14

Islands Trust Council Plan for Continuous Learning 2011-2015

(What other topics would trustees like to propose?)

2014-06-04

Year		Trust Wide and Administrative Topics	Legal and Governance Topics	Planning How-To	Working With Others
2014	Webinar Sessions (planned)	New Website Orientation		Northern and Southern Team Meetings	*Department of Fisheries and Oceans (re aquaculture) – to be confirmed*
	June	Coastal Douglas Fir Zone Conservation Action Plan	Aquaculture Management		San Juan County Respectful Workplaces
	Sept	Term Review	Election Period Best Practices Provincial Assessment of Impact on Islands Trust (re potential SSI incorporation)		
	Dec (Victoria)	Orientation Draft 2015/16 Budget Session	Orientation	Orientation	Orientation
2015	Mar	Introduction to Strategic Planning Annual Budget Session	Introduction to Roberts Rules Standards of Conduct (legal session)	Community Planning 101	Working with First Nations
	June	Strategic Planning – Review of Current Plan and Confirmation/Identification of Goals	Administrative Fairness		San Juan County
	Sept	Adoption of Strategic Plan for 2015-18			Working with the Trust Fund Board
	Dec	Draft 2016/17 Budget Session			

SESSIONS/ITEMS COMPLETED IN 2011-14 TERM					
Year		**Trust Wide and Administrative Topics**	**Legal and Governance Topics**	**Planning How-To**	**Working With Others**
	Webinar Sessions (held)	*Email Management (Aug 2013)* *Carbon Offsets (June 2013)*			
2014	*Mar*	*Annual Budget Session*			*Provincial Treaty Negotiators*
2013	*June (Mayne)*	*Carbon Neutral Policy*		*Making Difficult Decisions*	*Working with San Juan County*
	Mar (Thetis)	*Annual Budget Session*	*Legal Session* *Conflict of Interest*		*Working with the Islands Trust Fund*
	Sept (Lasqueti)	*Advocacy Policy*	*Freedom of Information and Protection of Privacy*	*Refresher on admin. fairness in application processes*	
	Dec (Victoria)	*Draft 2014/15 Budget* *Strategic Plan Review* *Invasive Species*		*Bylaw Enforcement Best Practices*	*Economic Sustainability Session*
2012	*Dec (Salt Spring)*	*Draft Budget Session*		*Greenshores for Homes re Shoreline Mapping*	*Agricultural Land Commission*
	Sept (Bowen)	*Strategic Planning* *Oil Spill Response*	*Standards of Conduct and Admin. Fairness Refresher*	*Best practices in public engagement*	*Bowen Island Municipality*
	June (Penders)	*Strategic Planning*	*Intro to Indemnification*		*First Nations* *San Juan County*
	Mar (Gabriola)	*Annual Budget Session* *Initial Strategic Planning*	*Standards of Conduct and Indemnification*	*Community Planning 101 (for new trustees)*	
2011	*Dec (Victoria)*	*Trustee Orientation*	*'Staying out of Trouble'*	*Planning Orientation*	*Making Fair Decisions* *Islands Trust Human Resources*

Potential topics/agency liaison for consideration in 2011-14 or future terms:

- *Public Consultation and Polling*
- Using Special Tax Requisitions
- Introduction to UBCM
- Effective Advocacy (Trustee Steeves suggestion) / advocacy policy
- Dealing with difficult people (Trustee Busheikin suggestion)
- Dispute Resolution for planners and trustees (Trustee Grove suggestion)
- Introduction to the Climate Action Charter
- Effective Conservation Covenants
- Demographics-Aging Population
- Dept. of Fisheries and Oceans – marine sewage, fish farming
- Private Managed Forests Council
- BC Assessment Authority
- Ministry of Transportation
- Local GHG Emissions Inventory (e.g. Lasqueti Island)
- Advocacy and Media Relations
- Succession Planning and Staff Retention
- Soil Removal
- Alternate Energy Sources
- Using Technology – document and information management
- Using Social Media
- Adapting to Sea Level Rise
- Local Government Liability

		SESSIONS/ITEMS COMPLETED in 2008 – 2011 TERM			
Year		**Trust Wide and Administrative Topics**	**Legal and Governance Topics**	**Planning How-To**	**Working With Others**
2008	*December (Victoria)*	*Intro to Budget Session Strategic Plan Discussion*	*General Orientation Governance (G. Cuff)*	*General Orientation*	*General Orientation*
2009	*Mar (Gabriola)*	*Annual Budget Session*	*Strategic Planning Legal Session*	*Intro to land use planning*	
	June (N. Pender)		*Procedural Fairness*	*Introduction to land use planning – part 2*	*Farm Industry Review Board San Juan County*
	September (Mayne)	*Climate Change – GHG Emission Reduction Targets*		*GHG Emission Reduction – planning policies actions*	
	December (SaltSpring)	*Intro Budget Session History of the Trust*	*Litigation 101*	*Comm. Housing Task Force Bill 27 Update*	*Trust Fund Board*
2010	*March (Hornby)*	*Strategic Plan Review Annual Budget Session*	*Update regarding court case*	*Comm. Housing Task Force Bill 27 Update*	
	June (Saturna)	*Marine Shipping Safety*	*Refresher on Orientation Topics*	*Refresher on Temporary Use Permits*	*San Juan County Parks Canada*
	Sept (Bowen)	*Strategic Plan Update and Review*		*Food Security through Land Use Planning RAR – QEP perspective*	*Bowen Island Council*
	Dec (Victoria)	*Intro Budget Session Strategic Plan Update*		*Good Planning Practice (Randall Arendt)*	*Trust Fund Board Regional Conservation Plan (RCP)*
2011	*March (Galiano)*	*Annual Budget Session*		*MAP IT demo Implementing RCP w/ LTCs*	
	June (Denman)	*Conservation Offsets*	*Operational Carbon Neutrality and Offsets*	*Rural By Design Practical examples*	*Electoral Area Director – Cortes Strathcona RD*
	Sept (SaltSpring)	*Term & Strategic Plan Review Advice to Incoming Council*	*Elections Period Best Practice*		*San Juan County*

Islands Trust

Preserving Island communities, culture and environment

Our Provincial Mandate

"to preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area and of British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the government of British Columbia"

– Islands Trust Act



Islands Trust Council — Strategic Plan 2011-2014

Adopted September 12, 2012 –Status Updated – *May 29, 2014*

The Trust Area

The Trust Area covers the islands and waters between the British Columbia mainland and southern Vancouver Island, including Howe Sound and as far north as Comox. This is a unique and special place composed of 13 major islands and more than 450 smaller islands covering approximately 5200 square kilometres.
The beauty, tranquility, and sometimes fragile natural environment of the islands in the Strait of Georgia and Howe Sound, characterized by an exceptional variety of species, have given the area national recognition.
The islands support strong communities characterized by a mix of lifestyles, livelihoods and individuals. Island residents bring unique skills, viewpoints and sense of place together to sustain a tradition of community involvement.

Our Council

The Islands Trust Council has a unique mandate from the province to preserve and protect the amenities and environment of the Islands Trust Area, for the benefit of residents and all British Columbians. It meets quarterly to make decisions about the Islands Trust's overall policy, advocacy positions, staff resources and budget. Trust Council is made up of the 26 locally-elected trustees who also sit on 12 local trust committees and one island municipality. There they have responsibilities for land use planning and regulatory decisions that are separate from their role at the Islands Trust Council. The current Council was elected for a 3-year term during BC Local General Elections in November 2011. Trustee terms will end in November 2014.

A Strategic Plan for the 2011-2014 term

The Islands Trust Policy Statement is partially implemented through Council's strategic plan. By identifying goals and developing a plan to achieve them, Council focuses finite resources and measures progress. After extensive review and public input, Trust Council has confirmed the following focus areas for its 2011-2014 term:

Goal A - Ecosystem Preservation and Protection

The Islands Trust will work to protect the natural environment of islands by:

- Encouraging and enabling islanders in voluntary stewardship actions that protect special areas, including the shoreline
- Working to protect fish habitat under BC's *Riparian Areas Regulation*
- Protecting special ecosystems, managing shoreline areas and reducing greenhouse gas emissions when land use decisions are made
- Advocating for new approaches to oil spill preparedness, derelict vessels, industrial developments, aquaculture, marine sewage and national marine conservation

Goal B – Stewardship of Island Resources

The Islands Trust will focus on good management of island water resources by:

- Encouraging voluntary stewardship, advocating for legislative reform and exploring creative solutions for watershed management
- Using land use planning tools and decisions to protect the quality and quantity of water resources

Goal C – Sustain Island Character and Healthy Communities

The Islands Trust will work to enhance the economic sustainability and security of island communities by:

- Creating linkages between islanders and regional districts to share effective economic development models
- Continuing to advocate for sustainable, affordable and appropriate ferry services
- Using land use planning tools and decisions to positively affect housing, food security, farmland protection, and socio-economic diversity.

Goal D – In Cooperation with Others

The Islands Trust will work with others by:

- Strengthening relations with the many First Nations who have interests in the Islands Trust Area, through improved liaison at the political level and communications about marine advocacy.
- Continually working to improve our organizational effectiveness

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Shaded text=activities primarily achieved in *the current* or prior fiscal years or proposed for future fiscal years and subject to future budget decisions;
Italics – status updates since last Trust Council meeting

NOTE: Status column has now been colour coded to provide a quick visual indicator, as follows:

	Not due to start or awaiting actions of others
	Completed
	In Progress – On Target
	Partially In Progress – Partially On Target (i.e. on target, by one or few LTCs)
	In progress - Behind Target (e.g. not funded, delayed by other priorities, etc.)
	Not started – Behind target

Policy Statement Goal A: Ecosystem Preservation and Protection…

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS ++
1 PROTECT the natural environment of islands	**1.1 Encourage voluntary stewardship of natural environment**	**FY 2011/12- 2014/15** 1.1.1 Promote community participation in conservation through information sharing and education about private land stewardship options	TFB	Subject to funding in annual budgets or grant funding	By whether the Islands Trust Fund is actively promoting its conservation programs at community events, in publications and online	Ongoing
		FY 2012/13 – *2014/15* 1.1.2 Share information about best practices for covenants and NAPTEP with all planning staff	TFB	Funded by base budget	By whether planners have been provided with covenant education opportunities and whether information is available through the Islands Trust Fund website	Website information complete NAPTEP info shared; ITF presentation to LPS not started
		FY 2012/13 – 2014/15 1.1.3 Improve and update mapping of natural and modified environments, including terrestrial ecosystem mapping, protected area networks, nearshore mapping and areas under sustainable forestry or sustainable agricultural use.	TFB	Funded by program budget in 2013/14 $22K for eelgrass mapping; $10K for forage fish mapping Further work subject to 2014/15 budget *$25K* for eelgrass mapping	By whether maps of natural and modified environments are available to LTC's and BIM, RDs, local conservancies and other partners	Draft Protected Area Network mapping available; eelgrass mapping completed for Gambier, Thetis, Thetis associated islands, Lasqueti, North Pender, South Pender, Mayne Ballenas-Winchelsea, Bowen, Denman, Gabriola, Galiano, Gambier Associated Islands (excluding Thormanbies), and Hornby. Forage fish habitat mapping *completed* for North and South Pender, Denman, Hornby and Thetis.
		FY 2013/14-*2014/15* 1.1.4 Research and develop a pilot landowner contact program in collaboration with a local	TFB	Subject to external funding	By whether a landowner contact pilot program is implemented	*Outreach to landowners planned on Lasqueti. Other islands under*

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS ++
		conservancy				*consideration*
		FY 2011/12 - 2014/15 1.1.5 Support island-based land trusts with partnerships, funding and capacity building opportunities	TFB	Funded by base budget and donations	By whether the Opportunity Fund grows by at least 10% per year and by the amount of grants issued	Recent grants awarded to Pender Island Conservancy ($5,000), Salt Spring Island Conservancy ($5,000) and Mayne Island Conservancy ($3,450)
		FY 2013/14 1.1.6 Council workshop regarding invasive species	TFB	Funded by base budget	By whether a Trust Council workshop has been held	Complete
		FY 2013/14 – 2014/15 1.1.7 Share information with the public about managing invasive species	TFB	*Funded by base budget*	By whether information has been shared with the public	Complete
	1.2 Expand Natural Areas Protection Tax Exemption Program (NAPTEP) program to entire Islands Trust Area	**FY 2012/13** 1.2.1 Present NAPTEP program to BIM Council for consideration	TFB / BIM***	Funded by base budget	By whether or not BIM has considered participating in the NAPTEP program	Complete. BIM declined for current term
		FY 2013/14 1.2.2 Seek support from Metro Vancouver RD for NAPTEP.	TFB	Funded by base budget	By whether support from Metro Vancouver RD (MVRD) has been sought	Complete
		FY 2013/14 - 2014/15 1.2.3 Launch NAPTEP on the islands in MVRDRD (subject to BIM and MVRD approval)	TFB	Funded by base budget	By whether NAPTEP has been launched on the islands within the MVRD	Complete. Program launched on Gambier LTC islands. BIM declined for current term.
	1.3 Protect fish habitat by implementing Riparian Areas Regulation	**PHASE 1 – Identify watersheds** **FY 2013-14 - 2014/15** 1.3.1 Identify RAR watersheds on Gambier, Hornby and Lasqueti	LTCs**	Subject to budget	By whether all RAR watersheds on Gambier, Hornby and Lasqueti have been identified	Mapping complete for Hornby. *Gambier underway*
		PHASE 2 – Improve mapping **FY 2012/13** 1.3.2 Improve mapping of some riparian areas on SSI	LTCs**	Funded by 2012/13 program budget	By whether new mapping of priority riparian areas is complete	Complete
		FY 2013/14 1.3.3 Improve mapping of additional riparian areas on Denman, Hornby and all remaining riparian areas on Salt Spring islands	LTCs**	Funded in 2013/14 program budget $71,000 RAR budget $30,000 Sci/Tech budget	By whether new mapping of riparian areas is complete	Mapping complete for Denman, Hornby *and Salt Spring.*
		FY 2014/15 1.3.4 Improve mapping of additional riparian areas in Gambier LTA	LTCs**	*Funded in* 2014/15 program budget ($30,000 mapping on Gambier LTA)	By whether new mapping of riparian areas is complete	*RFP in preparation for Gambier LTA*

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS ++
		PHASE 3 – Adopt bylaws **FY 2012/13 - *2014/15*** 1.3.5 Adopt new bylaws to implement RAR on selected islands (Gabriola, Lasqueti, Mayne, Saturna, Thetis)	LTCs**	Funded by *2014/15* program budget	By whether Gabriola, Lasqueti, Mayne Saturna and Thetis are RAR compliant through bylaw development	Saturna complete. Gabriola *bylaw submitted for ministerial approval.* Lasqueti & Thetis in progress. Mayne *restarting work*.
		FY 2014/15 1.3.6 Adopt new bylaws to implement RAR on all islands where still required (Ballenas/Winchelsea, Denman, Hornby, and Salt Spring)	LTCs**	*Funded* by 2014/15 program budget ($17,500)	By whether Ballenas/Winchelsea, Denman, Hornby and Salt Spring are compliant with RAR through bylaw development	*Work started*
		FY *2014/15* - ? 1.3.7 Adopt new bylaws to implement RAR on all Lasqueti and Gambier watersheds	LTCs**	Subject to 2015/16 program budget	By whether all Gambier and Lasqueti watersheds are compliant with RAR through bylaw development	*Project planning underway on Lasqueti*
	1.4 Establish reliable, adequate and sustainable funding for the Islands Trust Fund	**FY 2012/13 – 2014/15** 1.4.1 Seek legislative change regarding TFB corporate structure and name	EC / TFB	Funded by base budget	By whether legislative change has been requested	Chair correspondence sent Nov/12. Initial response received Feb/13. *Further minister meeting sought.*
		FY 2011/12 – 2014/15 1.4.2 Engage in outreach to expand donor base, develop legacy giving program and secure acquisition funds	TFB*	Partially funded through 2012/13 program budget	By whether the TFB has implemented outreach regarding funding needs and legacy gifts	Information package re Planned Giving distributed to estate planners
		FY 2014/15 1.4.3 Develop and implement strategy re changes to corporate structure and name	TFB	Subject to 2014/15 program budget	By whether TFB corporate status and name change has been implemented	Not started. Not due unless province makes legislative changes
		FY 2015/16 1.4.4 Review and launch long-term funding strategy	TFB	Subject to 2015/16 program budget	By whether the long-term funding strategy has been reviewed and launched	Not started. Not due unless province makes legislative changes
	1.5 Establish core conservation areas to protect biodiversity priorities	**FY 2011/12- *2014/15*** 1.5.1 Map and prioritize high biodiversity areas and develop a strategy for protection	TFB	Funded by base budget	By whether the TFB has a prioritized high biodiversity areas, and developed a strategy including a funding needs assessment)	Mapping finalized; strategy in development
		FY 2011/12 – 2014/15 1.5.2 Protect land with high biodiversity, through acquisition, donation, or conservation covenant	TFB*	Partial funding through base budget; acquisitions funded by donations and external grants	By whether the TFB has protected at least 500 hectares of high biodiversity land in the timeframe of the Regional Conservation Plan 2011-2015	133 hectares protected since 2011
		1.5.3 Participate in Coastal Douglas Fir and Association Ecosystem Conservation	LTCs**	Funded by base budget	By whether one LTC is actively participating	Galiano LTC participating

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS ++
		Partnership				
	1.6 Reduce greenhouse gas emissions	**FY 2012/13 - 2014/15** 1.6.1 Use new planning tools (Bill 27) to reduce greenhouse gas emissions to implement OCP policies LTCs adopted last term (e.g. as illustrated in Council toolkit Reducing Greenhouse Gases in the Islands Trust Area)	LTCs**/BIM***	Funded in 2013/14 annual budget	By whether LTCs/BIM have used new planning tools to foster reduced GHG emissions from development	Gabriola bylaw to implement OCP policies *given 1st reading. Public hearing scheduled for July.*
		FY 2012/13 – 2013/14 1.6.2 Develop policy regarding carbon-neutral operations and purchase of carbon credits to balance GHG emissions that cannot be eliminated	FPC	Funded by base budget	By whether Trust Council has adopted a policy	Complete
		FY 2013/14 - 2014/15 1.6.3 Develop a Renewable Energy Tool Kit	LPC	Funded by base budget	By whether elements of a Renewable Energy Tool Kit have been developed	Two reports complete: (Domestic Small Scale Wind Energy and Ocean Based Geo-Exchange). *Work underway on fact sheet re macro hydro.*
2. PROTECT coastal and marine ecosystems	**2.1 Encourage understanding of shoreline processes and voluntary stewardship of coastal and marine ecosystems**	**FY 2012/13** 2.1.1 Develop integrated shoreline and watershed protection mapping for major islands	LPC	Funded by external grants	By whether integrated shoreline and watershed protection mapping has been developed for major islands	Complete
		FY 2013/14 2.1.2 Identify and post updated website links regarding existing shoreline stewardship information	TAS	Funded by base budget	By whether website links have been updated	Complete
		FY 2013/14 - 2014/15 2.1.3. Pilot a Green Shores for Homes credit rating incentive system in one LTA	LTCs** / LPC	Funded by base budget and grant funds	By whether an LTC has piloted a Green Shores for Homes credit rating incentive system	Pilot underway on Thetis with LPC support.
	2.2 Participate in planning for National Marine Conservation Area Reserve	**FY 2011/12 – 2013/14** 2.2.1 Advocate for implementation of the NMCA reserve	EC	Funded by base budget	By whether the EC has continued to actively advocate for implementation of the NMCA reserve	Resolution supported by TC in Dec 2012 Feb 2013 Chair letters to Ministers Lake & Kent
		2.2.2 Participate in NMCA workshops and consultation opportunities	LTCs ** / TAS / EC	Funded by base budget	By level of participation in NMCA workshops and consultation opportunities	Complete. No further LTC input needed at this time.

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS ++
		FY *2014-15* 2.2.3 Respond to NMCA implementation steps with complementary activities, as required	LTCs**	*Funding allocated for enhanced SSI consultation*	TBD	Not due Not started
	2.3 Advocate for protection of the Salish Sea and Howe Sound from oil spills, derelict vessels and industrial activities	**FY 2011/12 – 2014/15** 2.3.1 Chair correspondence regarding oil spill prevention and response	EC	Funded by base budget	By whether the Chair has sent correspondence to advocate for oil spill prevention and response	2011:7 letters sent 2012:1 letters sent 2013: 3 letters sent *2014: 2 letters sent* Related resolutions passed at UBCM 2012 and AVICC 2013 conventions
		2.3.2 Chair participation through a 'letter of comment' to hearings related to Kinder Morgan tanker traffic	EC	Funded by base budget	By whether the Chair has sent a letter of comment regarding the Kinder Morgan pipeline proposal	*NEB accepted* application to participate as a commenter.
		2.3.3 Chair participation in *oral* hearings related to tanker traffic increases	EC	Letter of comment would be funded by base budget	By whether the Chair has participated in *oral* hearings *(i.e. Enbridge)* related to tanker traffic increase	Complete
		2.3.4 Host local government workshops to raise awareness of gaps in oil spill prevention and response capacity	EC	Funded by base budget	By whether workshops have been held	One workshop held at AVICC. Jan 2013 Chair presentation to Regional District Nanaimo Board. 2013: Chair presentation at San Juan County marine managers workshop *2014: Chair presentation at Pender Stewardship Day*
		2.3.5 Participate in mock oil spill exercises to understand gaps in oil spill response capacity	EC	Funded by base budget	By whether participation has taken place	Complete Participation in two exercises in 2012 *Staff observed transboundary oil spill exercise in 2014*
		FY 2011/12 – 2014/15 2.3.6 Continue to advocate for senior government solutions to derelict vessels	EC	Funded by base budget	By whether the Islands Trust has continued to advocate for derelict vessel solutions	Islands Trust participation on derelict vessel working group is on-going. *2013: 3 letters sent,* organized resolution, clinic and meeting with Minister at UBCM; trustees invited to contribute to federal

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS [++]
						inventory *2014: 2 letters sent; trustees and staff invited to contribute to federal inventory*
		FY 2011/12 – 2013/14 2.3.7 Advocate regarding potential impacts of the proposed Raven Coal Mine upon Baynes Sound	EC	Funded by base budget	By whether the Executive Committee has advocated regarding the proposed Raven Coal Mine	Complete May/13 BC EAO rejected proposal as submitted
		FY 2012/13 – 2014/15 2.3.8 Advocate regarding potential impacts of the proposed Burnco Gravel Mine upon Howe Sound	EC	Funded by base budget	By whether the *Chair has written a letter to* advocate regarding the proposed Burnco Gravel Mine	Complete Chair correspondence sent (Oct/13) *Ongoing staff participation in Environmental Assessment Office working group.*
		FY 2013/14 – 2014-15 2.3.9 Advocate for a comprehensive Howe Sound management plan that ensures a balance between development and protection	EC	Funded by base budget	By whether the Chair has written in support of a comprehensive Howe Sound Management Plan	2013: Participated in a minister meeting at UBCM and community meeting; support letter written. Awaiting specific request from community group. 2014: Hosted Cumulative Impact Framework webinar; *staff attended further meeting in May.*
		2.3.10 Provide ecosystem sensitivity mapping data to partners advocating for Howe Sound management plan	TAS	Funded by base budget	By whether mapping data has been offered	Complete
		FY 2013/14 – 2014/15 2.3.11 Clarify jurisdictional issues related to Islands Trust Area boundary	EC	Funded by base budget	By whether a method to clarify jurisdictional issues has been implemented	Preliminary discussion with ministry staff *RFD to TC in June/14*
	2.4 Advocate for appropriate regulation of aquaculture	**FY 2013/14 – 2014/15** 2.4.1 Meet with regulatory agencies responsible for shellfish activities in the Islands Trust Area	EC	Funded by base budget	By whether staff and the Executive Committee has met with regulatory agencies regarding shellfish activities	Staff meetings held Nov-Dec/13 Briefings and legal advice to *TC in June/14* *2014: Chair letter re geoduck framework with maps*

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS ++
	2.5 Advocate for effective regulation of marine sewage	**FY 2011/12 – 2014/15** 2.5.1 Chair correspondence regarding marine sewage regulation	EC	Funded by base budget	By whether the Chair has written to advocate for regulation of marine sewage	Research and mapping in progress. Staff participated in stakeholders' meeting re Saanich Inlet

Policy Statement Goal B: Stewardship of Island Resources...

TC	STRATEGIES	ACTIVITES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS++
3. PROTECT quality and quantity of water resources	**3.1 Encourage understanding and voluntary stewardship of water resources**	**FY 2013/14** 3.1.1 Compile and web-post educational materials about water resources done by local groups	TPC	Funded by base budget	By whether educational materials have been compiled and posted.	Complete
		3.1.2 Identify gaps and make recommendations about new educational materials about water resources.	TPC	Funded by base budget	By whether gaps have been identified and recommendations about new educational materials have been made	Island water groups asked to identify gaps in resources
	3.2 Advocate for provincial Water Act reform	**FY 2011/12 – 2013/14** 3.2.1 Continue to participate in Water Sustainability Act reform consultations	EC	Funded by base budget	By whether participation in Water Sustainability Act reform has taken place	Input to Water Sustainability Act complete
	3.3 Use land use planning tools and decisions to protect water quality and quantity	**FY 2013/14** 3.3.1 Develop toolkit including model Development Permit Areas for use by LTCs/BIM that illustrates options for using planning tools to protect water quality and quantity	LPC	Funded by 2013/14 program budget ($2500)	By whether a toolkit has been developed	Complete
		FY 2013/14 – 2014/15 3.3.2 Amend OCPs to include new policies for water resource protection	LTCs**/BIM***	Funded in 2013/14 program budget	By whether OCPs have been amended to include new policies about water resource protection	Galiano DAI bylaw adopted - addresses water protection
		3.3.3 Amend LUBs to include new regulations aimed at protection of water quality and quantity	LTCs**/BIM***	Funded in 2013/14 program budget	By whether LUBs have been amended to include new regulations aimed at protection of water quality and quantity	Initial water reports completed on Galiano
	3.4 Explore alternative tools for improving watershed management	**FY 2012-13** 3.4.1. Identify options within the Islands Trust Act for coordination of watershed protection	EC	Funded by base budget	By whether options have been identified	Complete

TC	STRATEGIES	ACTIVITES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS++
		FY 2013-14 3.4.2 Consider pilot project for coordination of watershed protection within one LTA	LTCs**	Partially funded by base budget.	By whether a pilot project has been considered	Complete St. Mary Lake Watershed Working Group formed on SSI. June/13 - TC adopted bylaw to delegate some TC coordination and advocacy powers to SSILTC.

NOTE: Status column has now been colour coded to provide a quick visual indicator, as follows:

	Not due to start or awaiting actions of others
	Completed
	In Progress – On Target
	Partially In Progress – Partially On Target (i.e. on target, by one or few LTCs)
	In progress - Behind Target (e.g. not funded, delayed by other priorities, etc.)
	Not started – Behind target

Policy Statement Goal C: Sustain Island Character and Healthy Communities…

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS++
4. ENHANCE community economic sustainability and security	**4.1 Create linkages between islands and Regional Districts to share effective and appropriate economic sustainability models**	**FY 2013/14** 4.1.1 Half day session on Trust Area economic sustainability at Dec 2013 Council in Victoria, inviting all EA reps	TPC	Funded by base budget	By whether a joint session has occurred	Complete
	4.2 Advocate for sustainable, affordable and appropriate ferry service	**FY 2013/14** 4.2.1 Develop and implement research program in support of advocacy program	TPC	Funded in 2013/14 program budget ($20,000)	By whether a research program has been developed and implemented	Freedom of Information requests complete
		FY 2011/12 – 2014/15 4.2.2 Continue advocacy program regarding ferry fares and service.	EC	Funded by base budget	By whether advocacy actions have been taken in regards to ferry fares and service	Submissions sent to Transportation Ministers Chair meetings with Premier, Transportation Ministers, opposition critics and ferry commissioner. Fiscal Fairness campaign supported. Chair participating in UBCM sub-committee
	4.3 Use land use planning tools and decisions to improve the availability of affordable, accessible, appropriate housing (as described in Trust Council's toolkit, Community Housing Toolkit)	**FY 2011/12 – 2014/15** 4.3.1 Amend OCPs to include affordable housing policies	LTCs**/BIM***	Funded in *2014/15* program budgets	By whether OCPs have been amended to include new affordable housing policies	Hornby and Saturna considering OCP amendments. *Denman housing needs bylaw in progress.* SSI bylaw *adopted* to allow secondary suites Bylaw for temporary portable homes *in progress.*

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS++
		4.3.2 Amend LUBs to improve availability of affordable housing	LTCs**/BIM***	Funded in 2013/14 program budgets	By whether LUBs have been amended to improve availability of affordable housing	SSI LUB amended to legalize secondary suites in some locations. Galiano, Mayne and N. Pender considering affordable/senior housing applications. Denman, *Mayne* and Saturna considering or drafting bylaw to allow secondary suites and/or dwelling units. *SSI consulting with CRD re housing agreements.*
	4.4 Use land use planning tools and decisions to increase local food security and farmland protection (as described in Trust Council's 2010 report, Exploring Food Security in the Trust Area)	**FY 2012/13 – 2014/15** 4.4.1 Amend OCPs to include food security and farmland protection policies	LTCs**/BIM***	Funded in *2014/15* program budgets	By whether OCPs have been amended to address food security and farmland protection	Gabriola OCP amendment *given 1st reading.*
		4.4.2 Amend LUBs to improve food security	LTCs**/BIM***	Funded in 2013/14 program budgets	By whether LUBs have been amended to improve food security	Gabriola LUB amendment drafted. Public consultation underway
	4.5 Use land use planning tools to promote socio-economic diversity	**FY 2013/14 – 2014/15** 4.5.1 Amend LUB to ensure an appropriate supply of land zoned for emerging industrial and commercial needs in one LTA	LTCs**	Funded in 2013/14 program budget for one LTC (SSI) Funded requested in 2014/15 budget	By whether one LUB has been amended to ensure an appropriate supply of land zoned for emerging industrial and commercial needs	*SSI APC considering the issue*
		4.5.2 Undertake background analysis regarding improved planning for Ganges Village, including Ganges Harbour	LTCs**	Funded in 2013/14 program budget for one LTC (SSI) Funded requested in 2014/15 budget	By whether background analysis work is proceeded	Project charter and illustrative designs in preparation

NOTE: Status column has now been colour coded to provide a quick visual indicator, as follows

	Not due to start or awaiting actions of others
	Completed
	In Progress – On Target
	Partially In Progress – Partially On Target (i.e. on target, by one or few LTCs)
	In progress - Behind Target (e.g. not funded, delayed by other priorities, etc.)
	Not started – Behind target

Goal D: In cooperation with others…

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS++
5. STRENGTHEN relations with First Nations	**5.1 Improve engagement with First Nations**	**FY 2011/12 – 2014/15** 5.1.1 Reallocate resources to enable adoption of a First Nations Engagement Strategy	TAS LPS	Funded by 2011/12 program budget	By whether Trust Council has reallocated resources to enable adoption of a First Nations Engagement Strategy	Resources not included in *current* budget
		FY 2012/13 5.1.2 Trustee workshop on working with aboriginal peoples	EC	Funded by 2012/13 program budget	By whether a trustee workshop has been held	Complete
		FY 2013/14 5.1.3 Identify resource needs for improved FN engagement	EC	Funded by base budget	By whether the resource needs for improved engagement have been identified	Complete Resources not included in budget
		FY 2013/14-2014/15 5.1.4 Implement First Nations liaison improvements at an informal political level	LTCs	Funded by base budget	By the number of meetings trustees have attended to improve liaison with First Nations level	Ballenas-Winchelsea LTC has added a work program item to improve engagement with Nanoose FN. DILTC and staff discussions held with Komoks FN. Chair liaison on-going.
6. IMPROVE organizational cost and operational effectiveness	**6.1 Confirm a fair distribution of Islands Trust Services to Bowen Island Municipality**	**FY 2012/13** 6.1.1 Review and amend Policy 7.2.vi (Municipal Requisition Cost Allocations)	FPC	Funded by base budget	By whether Policy 7.2.vi has been amended	Complete
		FY 2012/13 – 2014/15 6.1.2 Identify Bowen Island Municipality needs for services provided by Trust Area Services unit	TAS	Funded by base budget	By whether BIM needs for TAS services have been identified	Initial discussion held Sep/12. Chair follow up sent Oct/12 and Jan/13 Awaiting BIM response
		6.1.3 Identify improved opportunities for BIM to access services provided through Trust Area Services unit	TAS	Funded by base budget	By whether opportunities for BIM to access TAS services have been identified	Pending requests from BIM Staff follow up e-mail to CAO sent Jan/13 Awaiting BIM

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS++
						response
		6.1.4 Review budget lines to ensure accurate allocation of costs	FPC	Funded by base budget	By whether budget lines have been reviewed	Complete Municipal Requisition policy amended Dec/13
		FY 2013/14 6.1.5 Provide additional TAS services to BIM	TAS	Funded by base budget	By whether BIM is accessing additional TAS services as identified	Improved notice of IT items to BIM. Pending requests from BIM. BIM staff invited to training opportunities.
	6.2 Prepare Island Trust organization to adapt to the potential incorporation of Salt Spring Island (if province advances a provincial restructure study for SSI)	**FY 2013/14** 6.2.1 Provide input into provincial study that assesses impact on Islands Trust of the potential incorporation of Salt Spring Island and identifies alternative adaptation strategies	EC	Funded and managed by province	By whether input has been provided	In progress. Input into study terms of reference complete. Response to initial info requests from consultant complete. *Preliminary meeting with consultants held May 30*
		FY 2014/15 – ? 6.2.2 Consider options and adopt an adaptation strategy, for Islands Trust to implement in the event of municipal incorporation of Salt Spring Island	FPC / EC	Subject to future budgets	By whether options for an adaptation strategy have been considered and a preferred strategy adopted by Trust Council.	Not started. Not due unless a SSI restructure study is launched and is nearing completion
		FY 2015/16(?) - ? 6.2.3 Implement adopted adaptation strategy	EC	Subject to future budgets	By whether an strategy has been implemented to adapt to incorporation of SSI	Not started Not due unless SSI community passes a referendum to incorporate as a municipality
		FY 2015/16(?) 6.2.4 Review existing IT-MCSCD protocol agreement regarding incorporation of municipalities in the Islands Trust Area	EC	Funded by base budget	By whether the protocol agreement with the ministry has been reviewed and amended	Not started Not due unless a SSI restructure study is launched

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS++
	6.3 Review service delivery regarding application processing	**FY 2014/15** 6.3.1 Consider development and use of a quality management system pilot on Salt Spring Island for processing of development applications	LTC**	Funded by base budget	By whether a quality management system has been considered by the SSILTC for one type of application process	Not started Not due

* subject to decisions of Trust Fund Board **subject to decisions of local trust committees ***subject to decisions of Bowen Island Municipality

Abbreviations:
AVICC – Assoc. of Vancouver Island Coastal Communities
BIM – Bowen Island Municipality
EC – Executive Committee
FN – First Nations
FPC – Financial Planning Committee
FY – Fiscal Year
IT – Islands Trust
ITF – Islands Trust Fund
ITPS – Islands Trust Policy Statement
LGA – Local Government Act
LPC – Local Planning Committee
LPS – Local Planning Services
LTA – Local Trust Area
LTC – Local Trust Committee
LUB – Land Use Bylaw
MCSCD – Ministry of Community, Sport and Cultural Development
MVRD – Metro Vancouver Regional District
NA – Not Applicable
NEB – National Energy Board
NAPTEP – Natural Area Protection Tax Exemption Program
NMCA –National Marine Conservation Area
OCP – Official Community Plan
ProD – Professional Development
RAR – Riparian Areas Regulation
RD – Regional District
RFD – Request for Decision
SSI – Salt Spring Island
TAS – Trust Area Services
TBD – To Be Determined
TC – Trust Council
TFB – Trust Fund Board
TPC–Trust Programs Committee
UBCM – Union of BC Municipalities

For more information, contact:

Sheila Malcolmson, Chair,
Islands Trust Council
email smalcolmson@islandstrust.bc.ca
telephone 250.247.8078

Linda Adams, Chief Administrative Officer,
Islands Trust
email ladams@islandstrust.bc.ca
telephone 250.405.5151

Visit our website at:
www.islandstrust.bc.ca

Colour Key for Middle Column:

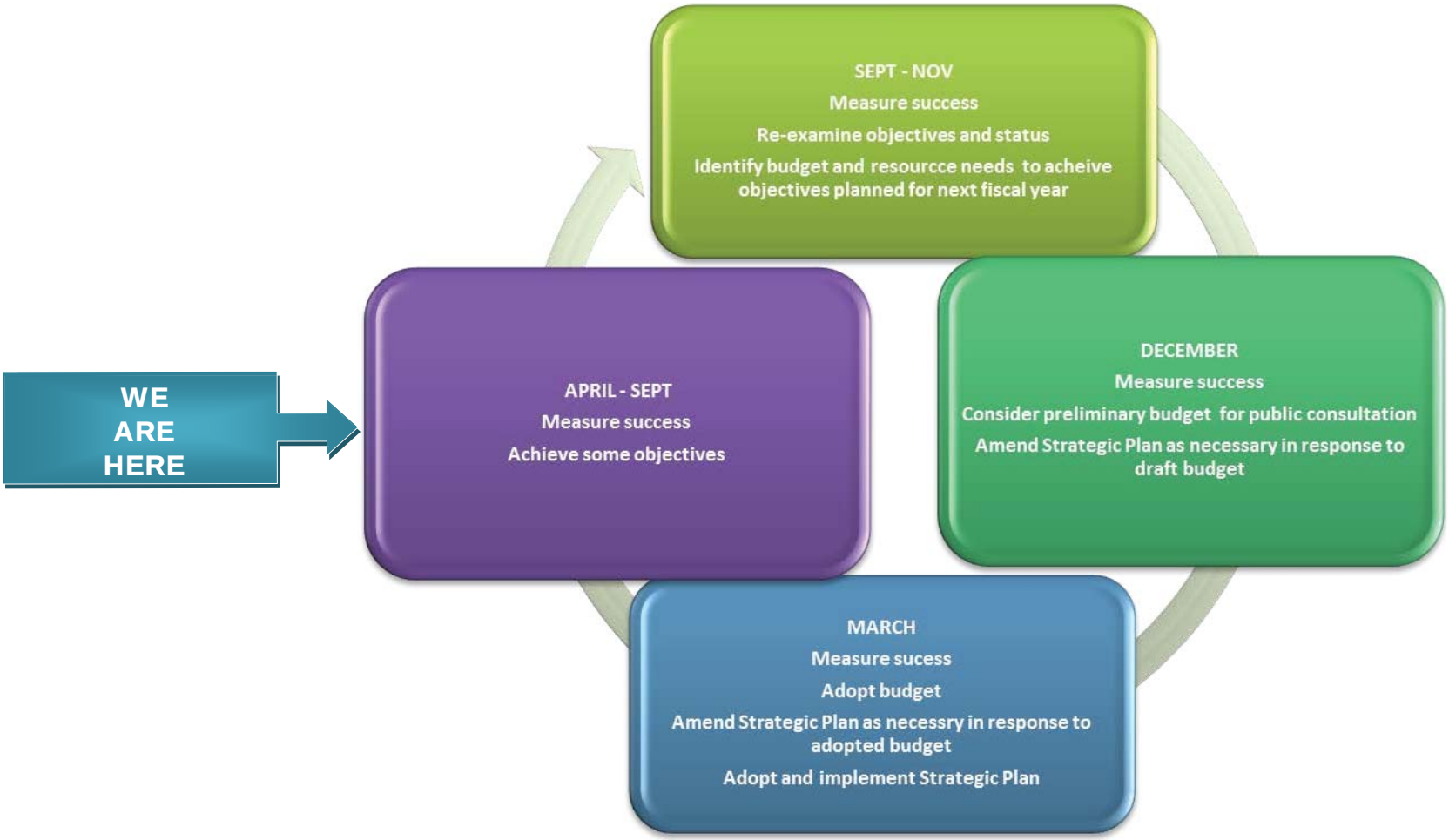
Colour	Potential committee / unit / body taking lead for a potential strategy
	Local Planning (through Local Planning Committee, Local Planning Services staff, Local Trust Committees or Bowen Island Municipality)
	Trust Programs Committee or Trust Area Services staff
	Executive Committee
	Trust Fund Board or Islands Trust Fund staff
	Financial Planning Committee

++ Colour Key for Status Column:

Colour	Status Description
	Not due to start or awaiting actions of others
	Completed
	In Progress – On Target
	Partially In Progress – Partially On Target (i.e. on target, by one or few LTCs)
	In progress - Behind target (e.g. not funded, delayed by other priorities, etc.)
	Not started – Behind target

Islands Trust

Summary of Strategic Planning Process



DIRECTOR OF ADMINISTRATIVE SERVICES
2014-2015 FIRST QUARTER REPORT

Date: May 28, 2014

COMPLETED SINCE LAST REPORT	PLANNED 2nd QUARTER 2014/15 ACTIVITIES
Trust Council, Executive Committee, Financial Planning Committee ▪ Received ministerial approval for Financial Plan and Borrowing Anticipation Bylaws. ▪ June 2, 2014 FPC and Audit Committee Meeting ▪ Presentation of draft Audited Financial Statements to FPC and Audit Committee Meetings June 2, 2014 ▪ Provided recommendations on changes to Budget Process Policy 6.3.i and Trustee Travel Policy 7.2.iii to Financial Planning Committee June 2, 2014 ▪ Provided RFD to Financial Planning Committee with respect to their section of the annual report	**Trust Council, Executive Committee, Financial Planning Committee** ▪ Forward 2013/4 audited financial statements to Minister ▪ Finalize revisions to Budget Process Policy 6.3.i and Trust Travel Policy 7.2.iii ▪ Draft Budget Assumptions and Guidelines for 2015/16 budget cycle and review at August 2014 FPC meeting ▪ Participate in development of Trustee Orientation materials for December Trust Council ▪ Review drafts and provide input to consultants re impact on Islands Trust re potential SSI incorporation.
Administrative Unit Supervision ▪ Held bi-weekly meetings with Admin Team ▪ Director attended Government Financial Officers' Association training on taxation ▪ Finance Officer attended Government Financial Officers' Association training on payroll ▪ Completed review of HR Local Area Network files ▪ Hired a new Administrative Assistant (to cover balance of a temporary vacancy) ▪ Finance Clerk has been on leave for several months (temporary clerk in place mid-May) ▪ Completed Administrative Services section of annual report ▪ Completed performance reviews for all staff in Administrative Services	**Administrative Unit Supervision** ▪ Review Finance and Local Area Network (LAN) files ▪ Review Operations Manual (Administrative Services sections) and update as needed ▪ Schedule visits to Northern office and Salt Spring office
Human Resources and Payroll ▪ All Staff Meeting March 12, 2014 ▪ Completed orientation and training of new HR Coordinator ▪ HR Coordinator completed OSH training and Hiring Process training through PSA ▪ Completed several hiring processes related to staff turnover ▪ Supported completion of the Performance Management and Development Process for all Islands Trust staff ▪ Provided support on several labour relations items (relocations, reclassifications, telework arrangements)	**Human Resources and Payroll** ▪ Follow up with Public Service Agency on contract ▪ Complete several hiring processes underway ▪ Develop training to managers on hiring processes, for delivery in October 2014 ▪ All Staff meeting June 25, 2014

COMPLETED SINCE LAST REPORT	PLANNED 2nd QUARTER 2014/15 ACTIVITIES
Information Systems ▪ Held Information Systems Advisory Group meeting April 9, 2014 ▪ Installed new server at Northern Office and Salt Spring Office ▪ Hired and oriented contractor to work on completion of eSCRIBE implementation (Computer Applications Support Technician resigned from position) ▪ Dealt with recovery from incidents related to a virus on our network and also a hacker on our phone system	**Information Systems** ▪ Continue to monitor 2014/15 consulting and hardware budget ▪ Begin work on 2014/15 work program including initial phase of staff computer refresh and migration to roaming profiles ▪ Support eSCRIBE implementations as required ▪ Begin work on Business Continuity Plan ▪ Develop Policy related to provision of laptops to Trustees
Financial Management and Payroll ▪ Completion of year-end transactions and preparation of March 31, 2014 draft financial statements for review by auditors ▪ Finance Officer participated on Time, Leave and Attendance Management (TLAM) Project with Public Service Agency ▪ RFP for audit services drafted ▪ Completed 2013 Climate Action Revenue Incentive Program report including finalizing carbon inventory and purchasing carbon credits ▪ Implemented and received training on new purchase order and fixed asset modules of ACCPAC (Accounting Software)	**Financial Management and Payroll** ▪ Complete Project Charter for Time, Leave and Attendance Management (TLAM) Project and proceed with implementation planning (for January 2015) ▪ Review capital asset management database ▪ Complete RFP for audit services ▪ Complete 2013/14 Statement of Financial information ▪ Implement new purchase order and fixed asset modules of ACCPAC (Accounting Software)
Risk/Safety/Contract Management ▪ Held monthly meetings of the OSH Committee ▪ Renewed insurance policies for this year ▪ Received a legal review of the template for Service Contracts – confirmed current provisions are sufficient	**Risk/Safety/Contract Management** ▪ Review template for Service Contracts and other procurement policy forms to ensure Conflict of Interest provisions are sufficient
Facilities Management • Renovations to common area of Victoria office completed by landlords • Drafted Project Charter on Leading Workplace Strategies – site visit to one of the Public Service Agency pilot areas with Chief Administrative Officer • Began to review lease renewals (in particular Salt Spring Island renewal January 2015)	**Facilities Management** ▪ Create and Chair Task Force to review Leading Workplace Strategies ▪ Consider lease renewal options for all offices (priority: (1) Salt Spring Island; (2) Victoria; (3) Gabriola Island).

FINANCIAL PLANNING COMMITTEE REPORT

To: Trust Council **Date:** June 2, 2014

WORK PROGRAM

1. First Draft of the 2015/16 Budget

Planned
Review budget assumptions and principles at FPC August 21, 2014 meeting

2. Complete the 2013/14 Year-End and Audit

Current
2013/14 audit completed and draft Audited Financial Statements and Audit Findings presented to June 2, 2014 FPC meeting.

3. Budget Process Policy 6.3.i.

Current
Staff recommendations with respect to changes to Budget Process Policy 6.3.i.presented to June 2, 2014 FPC meeting.

4. Trustee Travel & Procedures

Current
Staff recommendations with respect to new Islands Trust Council Policy.7.2.iii Trustee Travel Policy and Procedure presented to June 2, 2014 FPC meeting.

WORK PROGRAM STATUS *(Completed, Changed, and Future Priorities)*

The Financial Planning Committee has adopted the above noted priorities for the first quarter of fiscal 2013/2014. New work program items will be reviewed and assessed throughout the year.

UPDATE (*on Meetings, Agency Liaison, Resource Requirements, etc.)* The Financial Planning Committee met on June 2, 2014. The Audit Committee also met on June 2, 2014. The next meeting of the Financial Planning Committee is proposed to be held August 13, 2014. The Committee's financial resources are sufficient at this time.

Cindy Shelest
Designate Staff

Gary Steeves
Chair

REQUEST FOR DECISION

To: Trust Council **For the Meeting of:**: June 18-19, 2014

From: Financial Planning Committee **Date Prepared:** June 4, 2014

SUBJECT: MARCH 31, 2014 AUDITED FINANCIAL STATEMENTS (ANNUAL ITEM)

RECOMMENDATION: That Islands Trust Council approve the audited financial statements of the Islands Trust including the Statement of Financial Position, the Statement of Operations, the Statement of Changes in Net Financial Assets and the Statement of Cash Flows, for the year ended March 31, 2014.

CHIEF ADMINISTRATIVE OFFICER COMMENTS: The Independent Auditor's report indicated that in their opinion the financial statements present fairly, in all material respects, the financial position of Islands Trust as at March 31, 2014.

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL:
None

FINANCIAL:
None

POLICY:
None

IMPLEMENTATION/COMMUNICATIONS:
The year-end audited financial statements and auditor's report will be forwarded to the Minister of Community, Sport and Cultural Development as required by the *Islands Trust Ac*t, S. 19, and made available to the public via the Islands Trust website and at all office locations.

OTHER:
None

BACKGROUND

REPORT/DOCUMENT:

Islands Trust draft audited financial statements for the year ended March 31, 2014 attached.

KEY ISSUE(S)/CONCEPT(S):

Statement of Financial Position

Variances in Financial Assets and Liabilities have resulted from the timing of transactions from year to year. Overall, the result is an improvement in the Accumulated Surplus of $21,354.

Statement of Operations

The current year's surplus from operations of $21,354 has increased the Accumulated Surplus at March 31, 2014 to $2,425,077. This is $332,167 higher than budget. The budget for the current year projected a deficit of $310,813.

Variance Analysis of 2013/14 Actual to 2013/14 Budget as reported in the Statement of Operations:

Overall Revenues were lower than anticipated by $119,111. This resulted from (1) Investment Income being lower than anticipated due to a downturn in the bond market where the majority of surplus funds had been invested and (2) Other Revenues being lower than expected due to reduced grant revenues from previous years.

Expenditures overall were under budget by $451,278 due to:

Trust Council

Expenditures were lower than budget by $25,000 due to underspending in several areas including $7,000 for by-elections which were not necessary during the year.

Trust Area Services

Expenditures were lower than budget by $107,000 due primarily to underspending in the following areas:

- Projects funded by grants - $60,000
- BC Ferries Project - $20,000
- Salaries and Benefits - $20,000 primarily due to a position vacancy during the year

Trust Fund Services

Expenditures were lower than budget due to a vacancy in the property management area.

Local Trust Committees (LTC)

Expenditures were lower than budget by $55,000 due to underspending in the following areas:

- LTC trustee, meeting, APC, Communications and Special Project expenditures - $41,000
- Statutory Notices - $9,000

Planning Staff

Expenditures were lower than budget by $177,000 due primarily to underspending in salaries and benefits (offset by $58,000 in contract expenditures).

Local Planning Services Facilities and Programs

Expenditures were lower than budget by $27,000 due to:

- Underspending of $55,000 in Local Trust Committee projects
- Higher than anticipated costs in contract services of $58,000 (due to vacancies in planning staff)
- Reduction in internet charges for Salt Spring Island and Northern Office due to newly negotiated rates and services during the year.

Bylaw Enforcement

Expenditures were lower than budget by $31,000 due to an unanticipated leave in this area during the year.

Administrative Services

Expenditures were higher than budget due to a higher than anticipated leaves in the organization during the year and several reclassifications of positions during the year.

Variance Analysis of 2013/14 Actual to 2012/13 Actual as reported in the Statement of Operations

Revenues decreased overall by $28,060 due to:

- Decreased funding received under the Strategic Community Investment Fund Grant.
- Increased Bowen Island Municipality requisition (2012/13 included a reduction of $56,000 due to a retroactive adjustment related to previous years).
- Increased general property tax requisition
- Reduced investment income due to volatility in the bond market.
- Grant revenues lower than anticipated.
- Other variances not material in nature.

Expenditures increased overall by $153,653 due to:

- Staff salaries and benefits increased by 2% due to provincially negotiated increases with the BCGEU contract.
- Increased cost due to more leaves during the year than anticipated based on historical trends.
- Other variances not material in nature.

RELEVANT POLICY:

Bylaw No. 151, Islands Trust Financial Plan Bylaw 2013-14.

Also, the Islands Trust Act, S. 18 requires the Islands Trust appoint an auditor to audit the accounts and transactions of the Islands Trust Council and local trust committees, and requires that the auditor report to islands Trust Council and to the Minister.

DESIRED OUTCOME:

Approval of the audited financial statements for the year ended March 31, 2014.

RESPONSE OPTIONS

Recommended:

Approval of the audited financial statements for the year ended March 31, 2014.

Alternative:

n/a

Prepared By: Cindy Shelest, Director of Administrative Services

Reviewed By/Date: Linda Adams, Chief Administrative Officer – May 26, 2014
Financial Planning Committee – June 2, 2014
Executive Committee – June 3, 2014



Chief Administrative Officer

DRAFT Financial Statements of

ISLANDS TRUST

Year ended March 31, 2014

ISLANDS TRUST

Financial Statements

DRAFT

Year ended March 31, 2014

Financial Statements

Management's Responsibility for the Financial Statements	1
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MANAGEMENT'S RESPONSIBILITY FOR THE FINANCIAL STATEMENTS

The accompanying financial statements of Islands Trust (the "Trust") are the responsibility of the Trust's management and have been prepared in compliance with legislation, and in accordance with generally accepted accounting standards for local governments as established by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada. A summary of the significant accounting policies are described in note 1 to the financial statements. The preparation of financial statements necessarily involves the use of estimates based on management's judgment, particularly when transactions affecting the current accounting period cannot be finalized with certainty until future periods.

The Trust's management maintains a system of internal controls designed to provide reasonable assurance that assets are safeguarded, transactions are properly authorized and recorded in compliance with legislative and regulatory requirements, and reliable financial information is available on a timely basis for preparation of the financial statements. These systems are monitored and evaluated by management.

The Trust, acting through its Audit Committee, meets with management and the external auditors to review the financial statements and discuss any significant financial reporting or internal control matters prior to their approval of the financial statements.

The financial statements have been audited by KPMG LLP, independent external auditors appointed by Trust Council. The accompanying Independent Auditors' Report outlines their responsibilities, the scope of their examination and their opinion on the Trust's financial statements.

Chief Administrative Officer

Treasurer

INDEPENDENT AUDITORS' REPORT

To the Trustees of Islands Trust and the Minister of Community, Sport and Cultural Development

We have audited the accompanying financial statements of Islands Trust, which comprise the statement of financial position as at March 31, 2014, the statements of operations, change in net financial assets and cash flows for the year then ended, and notes, comprising a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian public sector accounting standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements present fairly, in all material respects, the financial position of Islands Trust as at March 31, 2014, and its remeasurement gains and losses, its results of operations, changes in net financial assets and its cash flows for the year then ended in accordance with Canadian public sector accounting standards.

Chartered Accountants

Victoria, Canada

ISLANDS TRUST

Statement of Financial Position

DRAFT

March 31, 2014, with comparative information for 2013

	2014	2013
Financial assets:		
Cash and cash equivalents (note 2)	$ 3,696,156	$ 3,702,155
Accounts receivable	55,271	88,562
	3,751,427	3,790,717
Liabilities:		
Wages and benefits payable	985,269	950,174
Accounts payable and accrued liabilities	295,217	383,501
Deferred revenue	53,981	55,714
Employee benefit obligations (note 3)	94,538	99,130
Obligations under capital leases (note 4)	55,265	43,481
Cost recovery deposits (note 11(ii))	9,675	15,110
	1,493,945	1,547,110
Net financial assets	2,257,482	2,243,607
Non-financial assets:		
Tangible capital assets (note 5)	115,322	124,979
Prepaid expenses	52,273	35,137
	167,595	160,116
Commitments (note 9)		
Contingent liabilities (note 10)		
Accumulated surplus (note 6)	$ 2,425,077	$ 2,403,723

The accompanying notes are an integral part of these financial statements.

On behalf of the Trust Council:

_____ Trustee

_____ Trustee

ISLANDS TRUST

Statement of Operations

DRAFT

Year ended March 31, 2014, with comparative information for 2013

	Budget (note 7)	2014	2013
Revenue:			
Property tax - general	$ 6,066,025	$ 6,066,025	$ 5,929,199
Property tax levy - Bowen Island Municipality	225,170	225,170	165,374
Provincial grant - operating	85,184	85,184	186,998
Fees and sales	110,000	103,604	110,465
Interest income	95,000	40,196	105,791
Other income	60,000	2,089	52,501
Total revenue	6,641,379	6,522,268	6,550,328
Expenses (note 8):			
Council services	1,123,808	997,420	978,323
Local trust committee services	5,135,200	4,879,667	4,753,668
Trust fund services	693,184	623,827	615,270
Total expenses	6,952,192	6,500,914	6,347,261
Annual surplus (deficit)	(310,813)	21,354	203,067
Accumulated surplus, beginning of year	2,403,723	2,403,723	2,200,656
Accumulated surplus, end of year	$ 2,092,910	$ 2,425,077	$ 2,403,723

The accompanying notes are an integral part of these financial statements.

ISLANDS TRUST

Statement of Change in Net Financial Assets

DRAFT

Year ended March 31, 2014, with comparative information for 2013

	Budget (note 7)	2014	2013
Annual surplus (deficit)	$ (310,813)	$ 21,354	$ 203,067
Acquisition of tangible capital assets	-	(18,550)	(52,429)
Acquisition of tangible capital assets through capital lease	-	(39,754)	(7,579)
Amortization of tangible capital assets	55,000	59,312	70,187
Loss on disposal of capital assets	-	8,649	-
	(255,813)	31,011	213,246
Acquisition of prepaid expenses	-	(17,136)	(4,302)
Change in net financial assets	(255,813)	13,875	208,944
Net financial assets, beginning of year	2,243,607	2,243,607	2,034,663
Net financial assets, end of year	$ 1,987,794	$ 2,257,482	$ 2,243,607

The accompanying notes are an integral part of these financial statements.

ISLANDS TRUST

Statement of Cash Flows

DRAFT

Year ended March 31, 2014, with comparative information for 2013

		2014		2013
Cash provided by (used in):				
Operating activities:				
Annual surplus	$	21,354	$	203,067
Items not involving cash:				
Amortization of tangible capital assets		59,312		70,187
Loss on disposal of tangible capital assets		8,649		-
Change in non-cash operating assets and liabilities:				
Accounts receivable		33,291		16,896
Wages and benefits payable		35,095		(64,571)
Accounts payable and accrued liabilities		(88,284)		117,996
Deferred revenue		(1,733)		(32,283)
Employee benefit obligations		(4,592)		(17,446)
Cost recovery deposits		(5,435)		(14,792)
Prepaid expenses		(17,136)		(4,302)
Net change in cash from operating activities		40,521		274,752
Capital activities:				
Acquisition of tangible capital assets		(18,550)		(52,429)
Financing activities:				
Principal payments on obligations under capital leases		(27,970)		(14,812)
Change in cash and cash equivalents		(5,999)		207,511
Cash and cash equivalents, beginning of year		3,702,155		3,494,644
Cash and cash equivalents, end of year	$	3,696,156	$	3,702,155
Supplemental cash flow information:				
Assets acquired under capital lease	$	39,754	$	7,579

The accompanying notes are an integral part of these financial statements.

Islands Trust (the "Trust") is incorporated under the Islands Trust Act of British Columbia (as amended). The objectives of the Trust are to preserve and protect the Trust area and its unique amenities and environment for the benefit of the residents of the Trust area and of the Province generally.

1. Significant accounting policies:

The financial statements of Islands Trust are prepared by management in accordance with Canadian public sector accounting principles for local governments as recommended by the Public Sector Accounting Board ("PSAB") of the Chartered Professional Accountants of Canada. Significant accounting policies adopted by the Trust are as follows:

(a) Reporting entity:

The financial statements include a combination of all the assets, liabilities, revenues, expenses, and changes in fund balances and in financial position of the trust council and the local trust committees.

The Trust occasionally conducts work on behalf of development applicants on a cost-recovery basis. These trust activities are not included in the financial statements.

(i) Consolidated entities:

The Trust does not control any significant external entities and accordingly no entities have been consolidated with the financial statements.

(ii) Funds held in trust:

The Trust administers operations of The Islands Trust Fund. The annual expenses of The Islands Trust Fund are reported by the Trust in accordance with The Islands Trust Act (note 11).

(b) Basis of accounting:

The Trust follows the accrual method of accounting for revenues and expenses. Revenues are normally recognized in the year in which they are earned and measurable. Expenses are recognized as they are incurred and measurable as a result of receipt of goods or services and/or the creation of a legal obligation to pay.

(c) Revenue recognition:

Government transfers are recognized in the financial statements as revenues in the period in which events giving rise to the transfer occur, providing the transfers are authorized, any eligibility criteria have been met, and reasonable estimates of the amounts can be made, except when and to the extent that the transfer gives rise to an obligation that meets the definition of a liability under section PS 3200 of public sector accounting standards.

1. Significant accounting policies (continued):

(c) Revenue recognition (continued):

Revenue unearned in the current period is recorded as deposits or deferred revenue.

The tax revenue is recognized on an accrual basis.

(d) Cash and cash equivalents:

Cash and cash equivalents include short-term highly liquid investments with a term to maturity of 90 days or less at acquisition. Investments in the Municipal Finance Authority of British Columbia ("MFA") Bond, Intermediate and Money Market Funds are recorded at cost plus earnings reinvested in the funds. Investment income is reported as revenue in the period earned.

(e) Employee future benefits:

The Trust and its employees make contributions to the Public Service Pension Plan, which provides benefits directly to employees upon retirement. These contributions are expensed as incurred.

A gratuity is also available to employees upon retirement. The cost of this benefit is born by the Public Service Pension Plan.

(f) Non-financial assets:

Non-financial assets are not available to discharge existing liabilities and are held for use in the provision of services. They have useful lives extending beyond the current year and are not intended for sale in the ordinary course of operations.

(i) Tangible capital assets:

Tangible capital assets are recorded at cost which includes amounts that are directly attributable to acquisition, construction, development or betterment of the asset. The cost, less residual value, of the tangible capital assets, excluding land, are amortized on a straight line basis over their estimated useful lives as follows:

Asset	Useful life - years
Furniture and equipment	5
Computers	3
Leasehold improvements	lesser of remaining term of the lease and useful life

1. Significant accounting policies (continued):

(e) Non-financial assets (continued):

(i) Tangible capital assets (continued):

Amortization is charged annually, including in the year of acquisition and disposal. Assets under construction are not amortized until the asset is available for productive use.

Tangible capital assets are written down when conditions indicate that they no longer contribute to the Trust's ability to provide goods and services, or when the value of future economic benefits associated with the asset are less than the book value of the asset.

(ii) Contributions of tangible capital assets:

Tangible capital assets received as contributions are recorded at their fair value at the date of receipt and also are recorded as revenue.

(iii) Works of art and historical treasures:

Works of art and historical treasures are not recorded as assets in these financial statements.

(iv) Interest capitalization:

The Trust does not capitalize interest costs associated with the acquisition or construction of a tangible capital asset.

(v) Leased tangible capital assets:

Leases which transfer substantially all of the benefits and risks incidental to ownership of property are accounted for as leased tangible capital assets. All other leases are accounted for as operating leases and the related payments are charged to expenses as incurred.

(g) Use of estimates:

The preparation of financial statements in conformity with Canadian public sector accounting standards requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the period. Significant estimates include assumptions used in estimating provisions for accrued liabilities. Actual results could differ from these estimates.

2. Cash and cash equivalents:

	2014	2013
Bank account balances	$ 457,494	$ 734,012
Municipal Finance Authority Bond Fund	861,744	2,906,135
Municipal Finance Authority Intermediate Fund	-	58,902
Municipal Finance Authority Money Market Fund	2,376,918	3,106
	$ 3,696,156	$ 3,702,155

3. Employee benefit obligations:

The Trust provides sick leave and certain other benefits to its employees and are recorded as follows:

	2014	2013
Vacation pay	$ 67,893	$ 73,488
Compensatory time off	26,645	25,642
	$ 94,538	$ 99,130

Vacation pay and compensatory time off represent the liability for accumulated banks for draw down at future dates and/or for payout on approved retirement, or upon termination or death.

Other pension plans

The Trust and its employees make contributions to the Public Service Pension Plan (the "Plan"), a jointly trusteed pension plan. The Board of Trustees, representing plan members and employers, is responsible for overseeing the management of the Plan, including investment of the assets and administration of benefits. The pension plan is a multi-employer contributory pension plan. Basic pension benefits provided are defined. The Plan has about 56,000 active members and approximately 39,000 retired members.

Every three years an actuarial valuation is performed to assess the financial position of the Plan and adequacy of Plan funding. The most recent valuation as at March 31, 2011 indicated an unfunded liability of $275 million for basic pension benefits. The next valuation will be as at March 31, 2014, with results available in 2015. The actuary does not attribute portions of the unfunded liability to individual employers. Employee and employer contributions to the plan were each increased by 0.40% of salaries effective April 1, 2012 in accordance with the plan actuary's recommendations. Contributions to the plan by the Trust totaled $283,811 (2013 - $245,590) during the year.

4. Obligations under capital leases:

The amounts due for obligations under capital leases are as follows:

2015	$	14,965
2016		13,888
2017		13,791
2018		10,482
2019 and thereafter		9,623
Total minimum lease payments		62,749
Less amounts representing interest (at rates ranging from 2.25% to 6.25%)		7,484
Present value of net minimum capital lease payments	$	55,265

Interest of $1,718 (2013 - $1,920) relating to capital lease obligations has been included in expenses on the statement of operations.

5. Tangible capital assets:

	Denman Island Site	Furniture and equipment	Computers	Leasehold improvements	Total 2014	Total 2013
Cost:						
Balance, beginning of year	$ 10,000	$ 119,099	$ 155,470	$ 244,268	$ 528,837	$ 476,581
Additions	-	39,754	18,550	-	58,304	60,008
Disposals	-	(45,790)	-	-	(45,790)	(7,752)
Balance, end of year	10,000	113,063	174,020	244,268	541,351	528,837
Accumulated amortization:						
Balance, beginning of year	10,000	78,565	112,454	202,839	403,858	341,423
Disposals	-	(37,141)	-	-	(37,141)	(7,752)
Amortization expense	-	16,632	24,932	17,748	59,312	70,187
Balance, end of year	10,000	58,056	137,386	220,587	426,029	403,858
Net book value, end of year	$ -	$ 55,007	$ 36,634	$ 23,681	$ 115,322	$ 124,979

Contributed tangible capital assets:

Contributed capital assets have been recognized at fair market value at the date of contribution. There were no contributed assets received during 2014 or 2013.

In fiscal 1994, the Denman Island Ratepayers' Association donated $10,000 which was used by the Trust to purchase the Denman Island Old School Site from School District #71. The Trust agreed to facilitate the sale of the school site between School District #71 and the Ratepayers' Association and to hold title to the property on behalf of the community. The Denman Island Ratepayers' Association has leased the building on the site from the Trust for 99 years for a total fee of $10.

6. Accumulated surplus:

Accumulated surplus consists of:

	2014	2013
Invested in tangible capital assets	$ 60,057	$ 81,498
General Revenue Fund	2,365,020	2,322,225
	$ 2,425,077	$ 2,403,723

7. Budget data:

The budget data presented in these financial statements is based upon the 2014 operating budget approved by Trust Council on March 6, 2013. The following reconciles the approved budget to the budget figures reported in these financial statements.

	Budget amount
Operating budget:	
Revenue	$ 6,952,193
Less appropriation from surplus	(310,814)
	6,641,379
Expenses	6,952,193
Annual deficit	$ (310,814)

8. Classification of expenses by object:

	2014	2013
Staff salaries and benefits	$ 3,870,438	$ 3,757,191
Traveling/training and recruitment	160,699	160,912
Council and trustee costs	785,377	801,185
Office operations	876,356	883,645
Programs	450,526	385,797
Legal	298,206	288,344
Amortization	59,312	70,187
Total expenses by object	$ 6,500,914	$ 6,347,261

9. Commitments:

(i) Minimum annual lease payments:

The Trust is committed to leases for rented premises. Minimum future payments in the next five years are as follows:

2015	$ 340,756
2016	281,845
2017	129,934
2018	9,173
2019	9,173

10. Contingent liabilities:

In the normal course of operations, claims for alleged damages are made against the Trust. Costs, if any, are recorded when a liability is likely and reasonably determinable.

11. Trust activities:

(i) Trust Fund under administration:

The Trust administers The Islands Trust Fund (the "Fund") which is related through the composition of the Fund's Board. The Fund is empowered to accept donations, grants and bequests on behalf of the Trust and to hold land and other property in compliance with a plan approved by the Ministry of Community, Sport and Cultural Development. The Fund's Board is comprised of three members from Trust Council and up to three members appointed by the Minister of Community, Sport and Cultural Development.

For financial reporting purposes, the Trust and the Fund are reported on separately. These financial statements present the financial position and results of operations of the Trust.

11. Trust activities (continued):

(i) Trust Fund under administration (continued):

The Fund's annual expenses are funded by and reported as part of the Trust in accordance with The Islands Trust Act. These expenses are summarized as follows:

	2014	2013
Programs	$ 465,536	$ 457,587
Board	14,082	18,559
Administration	144,701	139,124
	$ 624,319	$ 615,270

(ii) Third party trust funds:

The Trust administers trust activities on behalf of development applicants on a cost-recovery basis. The activities are as follows:

	2014	2013
Cash received during the year	$ 10,300	$ 19,340
Cash paid during the year	15,735	34,132

The net payable from development applicants of $9,675 (2013 - $15,110) is reported as a liability on the statement of financial position.

REQUEST FOR DECISION

To: Trust Council **For the Meeting of:**: June 18-19, 2014

From: Financial Planning Committee **Date:** June 4, 2014

SUBJECT: AMENDMENT TO POLICY 7.2.III TRUSTEE TRAVEL GUIDELINES

RECOMMENDATIONS:

1. **That the Islands Trust Council replace *Policy 7.2.iii Trustee Travel Guidelines* dated February 9, 1996 with *Policy 7.2.iii Trustee Travel Policy and Procedures,* dated June 18, 2014.**

2. **That the Islands Trust Council rescind Islands Trust Council Bylaw No. 29, cited as "Islands Trust Council Trustee Expenses and Benefits Bylaw, 1995", as amended.**

CHIEF ADMINISTRATIVE OFFICER COMMENTS: At the request of the Financial Planning Committee, *Policy 7.2.iii Trustee Travel Guidelines* has been reviewed and management has recommended updating the existing policy to clarify some aspects and more accurately reflect current procedures and practices. Some aspects of trustee travel reimbursement are currently contained in a bylaw, last updated in 2001. As a bylaw is unnecessary, these recommendations include rescinding that bylaw. In developing proposed amendments, staff also considered the standards for elected official travel that have been developed by the Ministry of Finance. The ministry recommends those standards be considered by other levels of government.

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL:

Adoption of an updated policy would reflect current procedures and practices that have shifted over the years. While the current policy is silent on several topics, the proposed policy provides clarification which can be expected to reduce confusion and staff time spent providing interpretations and clarifications.

Actual reimbursement rates are currently located in a Trust Council bylaw, which can be cumbersome to adjust in accordance with Cost of Living increases and other factors such as provincial reimbursement rates. The recommended policy would include an attached schedule which could be adjusted from time to time by resolution on the Executive Committee, upon recommendation of the Director of Administrative Services. This would allow a simpler, more flexible and less time-consuming way to update reimbursement rates.

FINANCIAL:
For the most part, the proposed travel reimbursement rates reflect current practice, so adoption of an amended policy is not expected to have financial implications.

It is recommended that the reimbursement rate for water travel by personal motor vessel be increased from $1.50 per km to $3.00 per km. The rate has not been updated since 2001. Instances of this type of expenditure are minor in nature and have minimal financial impact.

POLICY:

These recommendations would amend Policy 7.2.iii Trustee Travel Guidelines and would rescind Islands Trust Council Bylaw No. 29 cited as "Islands Trust Council Trustee Expenses and Benefits Bylaw, 1995", last amended in 2001.

IMPLEMENTATION/COMMUNICATIONS:

The revised policies will be circulated to holders of the Islands Trust Policy Manual and placed on the Islands Trust website.

Orientation of new trustees in December would be based on the revised policy.

OTHER:

None

BACKGROUND

- Policy 7.2.iii was established in 1996 and has not been reviewed since that time. This policy provides guidelines for trustees and staff with respect to trustee travel arrangements and expense reimbursement.
- The Financial Planning Committee requested staff to recommend amendments to Policy 7.2.iii.
- Previously, amendments to the travel reimbursement rates were adopted by bylaw. However a recent review of the statutory provisions indicates that the requirement for a bylaw no longer exists. Therefore, it is recommended that the existing bylaw be rescinded and its content be incorporated into the new policy.

REPORT/DOCUMENT:

Attachment 1 - Policy 7.2.iii Trustee Travel Policy an Procedures June 18, 2014 (draft)
Attachment 2 - Policy 7.2 iii Trustee Travel Guidelines February 9, 1996 (existing)
Attachment 3 - Bylaw No. 85 “A Bylaw to amend the Islands Trust Council Trustee Expenses and Benefits Bylaw, 1995”.
Attachment 4 - Bylaw No. 29 “A Bylaw to Provide for Trustee Expenses and Benefits”.

KEY ISSUE(S)/CONCEPT(S):

Clarification of Trustee Travel and Expense Reimbursement Guidelines.

RELEVANT POLICY:

Islands Trust Council Policy 6.5.iii Purchasing Procedure
Islands Trust Council Policy 6.12.i Trustee Training/Conference Attendance
Islands Trust Council Policy 7.2.i Trustee Remuneration

DESIRED OUTCOME:

A more accurate and transparent reflection of current procedures and practices, clearer internal controls over trustee travel expenditures and a simpler way to make adjustments in reimbursement rates.

RESPONSE OPTIONS

Recommended:

1. **That the Islands Trust Council replace *Policy 7.2.iii Trustee Travel Guidelines* dated February 9, 1996 with *Policy 7.2.iii Trustee Travel Policy and Procedures,* dated June 18, 2014.**

2. **That the Islands Trust Council rescind Islands Trust Council Bylaw No. 29, cited as "Islands Trust Council Trustee Expenses and Benefits Bylaw, 1995", as amended.**

Alternative:

- That different revisions be made to Policy 7.2.iii Trustee Travel Guidelines
- That Policy 7.2.iii Trustee Travel Guidelines not be amended at this time and that Bylaw 29 remain in place

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Prepared By: C. Shelest, Director of Administrative Services

Reviewed By/Date: Linda Adams, Chief Administrative Officer - May 26, 2014

Financial Planning Committee - June 2, 2014

Executive Committee Meeting - June 3, 2014



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Chief Administrative Officer

7.2.iii. Guidelines

TRUSTEE TRAVEL POLICY

Trust Council: June 2014

1. Objectives

1.1. Ensure effective travel management and administration, and promote economy and efficiency in the use of Islands Trust funds.

1.2. Support the Islands Trust Council's commitment to low carbon business travel by making choices that mitigate the production of greenhouse gas emissions.

1.3. Establish standards to ensure:

1.3.1. travel expenses are proper, reasonable and necessary to the business of Islands Trust bodies;

1.3.2. accountability for travel claim requests and approvals, and travel emission reports and approvals.

1.4. Provide and promote alternatives to travel to carry out the business of Islands Trust bodies.

2. General

This policy and the attached procedure establishes travel guidelines, allowances, reimbursement rates and limits for elected trustees of the Islands Trust Council and trustees appointed to the Islands Trust Fund Board.

For the purposes of this policy, the terms "trustee" is used as defined in the *Islands Trust Act*, as amended.

For the purposes of this policy, allowable travel includes travel while on business for the following purposes:

- Trust Council meetings and business (liaison, training, etc.)
- Local trust committee business (e.g. travel to local trust committee meetings, site visits or other purposes related to local trust committee business)
- Council committee meetings and business
- Trust Fund Board meetings and business

If a trustee with a physical disability requires a personal attendant in order for the trustee to travel to undertake Islands Trust business, the personal attendant may claim, as if the attendant were a trustee, for expenses incurred and allowances permitted under this policy for the period that the personal attendant aided the trustee in carrying out Islands Trust business.

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Roles and Responsibilities

- Trustees are responsible for:
  - Confirming authority and securing budget approval for any extraordinary[1] travel expenses before they are incurred, by seeking a resolution of the body on whose behalf the extraordinary travel is to be undertaken;
  - certifying that their travel expense claims are correct, complete and comply with this policy; and
  - ensuring that all necessary documentation is provided, along with their travel expense claim, within the timeframes set out in this policy.
- Financial staff are responsible for:
  - Providing reports on expenditures; and
  - certifying that travel expense claims:
    - are for business purposes, appear reasonable and comply with policy;
    - that travel related goods and services have been received
- The Director of Administrative Services establishes procedures for the administration and processing of travel expenses, and advises trustees on travel policy and procedures.
- The Director of Administrative Services provides liaison with provincial agencies that negotiate accommodation rates, vehicle rental rates and negotiations with travel agencies.
- Where a matter related to the reimbursement of expenditures is not covered by this policy or the attached procedures, then policies and procedures established by the Ministry of Finance for the reimbursement of expenditures of elected officials will apply.

3. Policy

3.1. Alternatives to Travel

Trustees and Islands Trust bodies must consider alternatives to travel wherever practical. Video conferencing and teleconferencing and other methods should to be used where feasible to achieve cost savings and to mitigate the production of greenhouse gas emissions.

3.2. Travel Approval

3.2.1. The means of travel chosen needs to be operationally feasible and cost effective, and give consideration to travel methods that will mitigate the production of greenhouse gas emissions. Trustees are eligible for reimbursement of travel expenses when:

3.2.1.1. trip approval for extraordinary travel is obtained (by resolution of the relevant Islands Trust body) before travel expenses are incurred;

[1] *Extraordinary* travel expenses are expenses that are not related to the day-to-day travel required to perform the regular duties of a member of an Islands Trust body, and that are not similar to the expenses typically incurred by other members of the same Islands Trust body.

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3.2.1.2. the expenses are paid by the trustee while away from home to discharge official duties;

3.2.1.3. claims are reasonable, properly reported and comply with established rates and allowances; and

3.2.1.4. are supported by proof of payment documentation.

3.2.2. Reimbursement claims require review by the Finance Officer before they can be paid. (see Trustee Travel Procedures).

3.3. Combining Personal Travel

3.3.1. Travel that combines Islands Trust and personal business must be reimbursed at the lesser of

3.3.1.1. actual transportation expenses; or

3.3.1.2. an estimate of the minimum acceptable expenses that would have been incurred if the personal travel had not taken place.

3.3.2. Additional expenses arising from personal extensions to business travel are the trustee's responsibility.

3.3.3. Expenses for an employee's spouse or family members are not reimbursable.

3.3.4. Because the Islands Trust has an internal process for purchasing carbon offsets, trustees must not claim any optional payments or surcharges related to carbon offset programs administered by travel service providers.

3.4. Out-of-Province/Country Travel

3.4.1. In order to be eligible for reimbursement, trustee out-of-province and out-of-country travel, including complete plans to combine personal travel, requires prior approval by resolution of an Islands Trust body.

3.5. Airfare

3.5.1. The most economical airfare for air travel considering operational requirements and options that mitigate the production of greenhouse gases is required. This requirement may be waived in exceptional circumstances, with the prior approval of the Director of Administrative Services. Such approval will be based on policies established by the Ministry of Finance.

3.5.2. Travel loyalty program benefits, such as airline frequent flyer points that are accumulated by trustees while travelling at public expense, must not be used for personal benefit. Such benefits or discounts should be applied only against future business travel or donated to charities associated with the program. Benefits accumulated while travelling at public expense should not be used beyond the term of office.

3.6. Chartered Aircraft or Watercraft

3.6.1. The use of a chartered aircraft or watercraft by a trustee is permitted only when:

3.6.1.1. there is no scheduled service available that can meet the travel requirements (timing or duration) of the trustee(s); or

3.6.1.2. the charter cost is economical as compared to the scheduled service; and

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3.6.1.3. the charter aircraft or watercraft and crew meet the safety, maintenance and experience standards established by Transport Canada for such operations.

3.7. Meals / Per Diems

3.7.1. Trustees are eligible to claim meals, per diems and incidental travel amounts when on 'travel status'.

3.7.2. Trustees are considered to be on travel status for the purpose of claiming meals and per diems when they are travelling outside the local trust area or island municipality they represent on Islands Trust business.

3.7.3. Trustees who live outside the local trust area they represent are not entitled to claim meals and per diems while travelling from their home to their local trust area. Trustees who live outside the local trust area or municipality they represent are on travel status when travelling from their home to other locations on Islands Trust business (e.g. attendance at Trust Council or Council Committee meetings).

3.7.4. Appointed trustees on the Trust Fund Board are on travel status when travelling from their home on Trust Fund Board business.

3.7.5. On the date of departure, travel status must start before 7:00 a.m. to claim breakfast; before 12:00 noon to claim lunch; and, on the date of return, travel status must end after 6:00 p.m. to claim dinner.

3.7.6. Per diem charges for meals may not be made where meals have been provided (e.g. as part of an Islands Trust meeting or function or when meals are provided as part of the fee paid for a convention or training event).

3.7.7. See Schedule A for the applicable meal and per diem allowances that trustees may claim.

3.8. Mileage and Private Vehicle or Vessel Expenses

3.8.1. Trustees are entitled to claim mileage for the use of a privately owned vehicle on travel related to Islands Trust business.

3.8.2. Trustees are expected to carpool where practical to minimize costs and the production of greenhouse gas emissions.

3.8.3. Trustees may claim vehicle mileage where they are driven to the departure location (i.e., airport, bus, ferry or train terminal) and picked up upon return.

3.8.4. Trustees are entitled to claim the cost of parking a private vehicle while on Islands Trust business.

3.8.5. Trustees are responsible for paying parking fines, traffic violation fines, and impoundment and towing fees when driving a privately owned vehicle on Islands Trust business.

3.8.6. Trustees may claim for use of privately owned boats in accordance with the rates provided in Schedule A.

3.8.7. The vehicle or vessel owner is responsible for purchasing and maintaining valid third-party liability insurance in an amount not less than $2 million. Trustees transporting Islands Trust property, other trustees, employees, contractors, volunteers, or other persons in privately owned vehicles in the course of Islands Trust business are not required to carry higher limits.

3.8.8. The vehicle owner is responsible for ensuring that the vehicle is rated for business use if required by the Insurance Corporation of British Columbia. Islands Trust will reimburse the differential between "Business Use" and "To and From Work" or "Pleasure Use".

3.8.9. Trustees transporting Islands Trust property, other trustees, employees, contractors, volunteers, or other persons in privately owned vessels in the course of Islands Trust business are responsible for meeting applicable laws that apply to the safe operation of water vessels.

3.9. Rental Vehicles

3.9.1. A rental vehicle should be used when public transportation is not operationally feasible or a privately owned vehicle is not available or economical.

3.9.2. Trustees renting vehicles for Islands Trust business travel, regardless of the form of payment (corporate travel card, purchasing card, invoice, cash), must not purchase any additional insurance (collision, personal accident, etc.). All required insurance is included for in-province travel in vehicles rented under Islands Trust insurance policies.

3.9.3. Trustees are entitled to claim the cost of parking a rental vehicle while on Islands Trust business.

3.9.4. Trustees are responsible for paying parking fines, traffic violation fines, and impoundment and towing fees when driving a rented vehicle on Islands Trust business.

3.10. Accommodation

3.10.1. Trustees may use private accommodation instead of commercial accommodation and claim a private accommodation allowance as indicated in Schedule A.

3.10.2. Reimbursement for commercial accommodation within BC must be in accordance with the BC government's hotel accommodation guide approved accommodation rates. Trustees making their own reservations must ensure they request the B.C. Provincial Government rate when booking rooms.

3.10.3. Accommodation expenses within BC that exceed the limits noted above require pre-authorization from the Director of Administrative Services. Amounts in excess that are considered acceptable may be determined on a case by case basis, considering variables such as the urgency of the travel, whether travel is occurring in peak season and if accommodations at the established limits are not available.

3.11. Miscellaneous Expenses

3.11.1. Trustees are entitled to claim miscellaneous travel expenses for:

- ferry tolls, ferry reservation fees and highway tolls in accordance with the Trustee Travel Expense Procedures
- airport improvement and security fees, NAV CANADA fees and applicable fuel charges
- bus/taxi/limousine services
- vehicle rental and related fuel charges

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- parking charges
- business phone calls
- dependent care
- other miscellaneous travel expenses consistent with the Trustee Travel Procedures.

3.12. Loss or Damage

3.12.1. Where a trustee on Islands Trust business incurs a loss of or damage to personal property which is pertinent to the performance of his or her duties, that is not otherwise covered by Islands Trust policy or insurance, the trustee may be reimbursed for the lessor of the loss, or the costs of repair, or the deductible portion of the trustee's insurance policy, up to a maximum of $500.

3.13. Travel Cards

3.13.1.1. Executive Committee members are eligible to be issued an Islands Trust credit card for paying for travel related expenditures.

3.13.1.2. Executive Committee members are eligible to be issued an Islands Trust BC Ferry Travel Card which must be used to purchase all ferry tickets, where applicable, in order to access the most favourable fare.

3.14. Islands Trust Online Travel Claim

The Islands Trust online travel claim is a web-based system for processing expense reports. When a trustee submits a claim, their electronic signature is equivalent to certifying that the expense report is correct, complete and complies with Islands Trust policy.

Travel expense receipts must be provided as proof of payment as set out in Schedule A of the Trustee Travel Procedure. Travel claims should be completed and submitted to the Islands Trust Finance Department on at least monthly basis. Payment is generally made within 30 days.

4. Information and References

4.1. *Islands Trust Act*

4.2. Related Policies

4.2.1. Policy 6.5.iii Purchasing Procedure

4.2.2. Policy 6.12.i. Trustee Training/Conference Attendance

4.2.3. Policy 7.2.i Trustee Remuneration

TRUSTEE TRAVEL PROCEDURES

Trust Council: June 2014

1. General

1.1. Trustees are responsible for making their own travel arrangements, except where they have been notified that arrangements have been made on their behalf (e.g. for Trust Council and Executive Committee meetings or business).

1.2. Allowable expenditures and rates of reimbursement are specified in Schedule A of this Procedure. Schedule A may be amended from time to time by the Executive Committee, after receiving advice from the Director of Administrative Services, to ensure that it is:

1.2.1. current with the allowable expenditures and rates of reimbursement provided for provincially-elected officials in British Columbia, as determined by provincial policies and procedures;

1.2.2. amended to reflect inflationary increases, for those expenditures and rates that are not determined by provincial policies and procedures.

1.3. All expenses associated with travel must be paid by the trustee travelling except for airline tickets and some accommodation billings which may be paid directly by the Islands Trust.

1.4. Supporting receipts, invoices with proof of payment, and applicable resolutions of an Islands Trust body (where required by travel policy) must be attached to expense claims as per Schedule A.

1.5. Travel claims should be completed and submitted at least monthly. Travel claims that have not been submitted within the quarterly timelines established by the Finance Officer for financial reporting will not be honoured unless approved by the Executive Committee.

1.6. Claims for less than the allowable amount are permitted. A brief note should be attached to show the trustee is aware of the undercharge.

2. Reasonable Accommodation and Support for Persons with Disabilities

2.1. Reasonable accommodation and support for persons protected under the *Human Rights Act,* (e.g. such as those with a disability) will be provided.

2.2. Policies requiring less costly travel alternatives still apply. However, when a trustee with a disability is required to travel, reasonable accommodation will be provided to minimize

any disadvantage the individual might experience as a result of the disability.

2.3. Trustees with disabilities who travel or attend meetings on Islands Trust business may have special needs and may claim additional expenses incurred to reasonably accommodate those needs. For example, a trustee with a disability may need to pay a hotel rate exceeding the government rate where rooms available are not sufficiently accessible. Reasonable accommodation need not be limited to expenses that normally require receipts. Incidental, meal and local transportation expenses may need to be increased to offset the additional costs.

3. Travel Claims

3.1. General

3.1.1. To claim expenses, trustees must use the Islands Trust's online Expense Claim form.

3.1.2. Instructions for use of the online form provide further details about each field that must be completed.

3.2. Foreign Exchange on Travel Expenses

3.2.1. Each receipt and/or allowance is to be converted to Canadian funds. Actual exchange rates charged on supporting documentation (e.g. travel credit card statements, currency exchange slips) should be used, if available.

3.2.2. When the travel credit card exchange rate is not available, the currency converter at: http://www.oanda.com/currency/historical-rates-classic should be used to obtain average historical exchange rates for currency pairs for the range of dates travelled. Key in the dates travelled, select the foreign currency to convert and Canadian dollars, and then select the "Typical credit card rate plus 2%" from the "Interbank rate" drop down box. Generate the conversion table, and then use the *"Average rate"* for the trip to convert the foreign currency to Canadian funds.

3.3. Vehicle Travel

3.3.1. Trustees making their own vehicle rental reservations must ensure they request the B.C. Provincial Government rate at the time of booking. Trustees renting vehicles for travel related to Islands Trust business must not purchase additional insurance coverage. Islands Trust has specific insurance riders in place to cover these types of expenses.

3.3.2. Trustees must comply with the operating restrictions in the vehicle rental agreement. Before taking possession of the vehicle, trustees must inspect the vehicle for exterior and interior damage, and report any damage to the rental firm.

3.3.3. Trustees must not accept any charges for damages to a rental vehicle. Refer the rental firm to the Director of Administrative Services.

3.3.4. Trustees are expected to protect government property while in their possession by locking and securing the rental vehicle when not in use. An extraordinary loss

of personal property may be reimbursed. If an Islands Trust credit card was used to pay for the vehicle rental, the loss of personal property secured in the vehicle may be claimed. For personal property loss or insurance information, contact the Director of Administrative Services.

3.4. Vehicle Accidents, Vandalism and Other Losses

3.4.1. Rental Vehicles

3.4.1.1. All accidents must be reported to:

- the rental agency within 24 hours; and
- the Director of Administrative Services

The local police must be informed within 24 hours when:

- damages exceed $1,000;
- a person has sustained injury or death; or
- there has been a hit-and-run accident with damage.

An operator involved in an accident must not admit liability and provide only the information required by the investigating police officer.

3.4.1.2. If a rental vehicle is stolen, the theft must be reported to the local police and the rental firm immediately. All damage resulting from vandalism or theft must be reported to:

- the rental company within 24 hours; and
- the local police (before the vehicle is moved, if possible).

3.4.2. Private Vehicle of Vessel Damage Reimbursement

Note: This section will not apply where a court holds that the trustee/driver of the vehicle or vessel is guilty of wilful, wanton or gross negligence.

- To claim reimbursement for damage to a private vehicle or vessel that occurred while on Islands Trust business, trustees must provide the following documentation, if applicable, in support of their claim:
  - a covering letter outlining the circumstances of the damage, signed by the trustee
  - a copy of the police report, if applicable;
  - copy of the trustee's insurance documents (Owner's Certificate(s) of Insurance; a copy of ICBC repair estimate, or if ICBC coverage did not apply, copies of estimates from two (2) repair shops;
  - a copy of the receipt for repair, if not repaired through ICBC; and
  - a copy of the receipt for payment of the deductible portion of the loss.
- Claims are to be sent to the Director of Administrative Services for review.
- After reviewing the claim, the Director of Administrative Services will send a letter to the trustee making the claim informing the trustee of the decision and authorizing the payment amount, if applicable.

3.5. Taxi Charges

3.5.1. Claims for taxi costs while travelling on Islands Trust business will be reimbursed when other more economical means of transportation are either unavailable or unsuitable (e.g., public transit).

3.6. Ferry Travel

3.6.1. Claims for the full cost of ferry travel will be reimbursed. Receipts are required.
3.6.2. Where there is a valid business reason for making a reservation (e.g. travel during peak travel periods) the costs may be reimbursed. Trustees are responsible for the costs associated with cancellations, except in exceptional circumstances (i.e., they are involved in a traffic accident en-route).

3.7. Air Travel

3.7.1. The passenger copy of the air ticket is to be attached to the travel claim.
3.7.2. Trustees are not authorized to fly private or personally rented aircraft on Islands Trust business

3.8. Accommodation

3.8.1. Supporting hotel/motel receipts must be attached to the travel claim. A trustee must declare that "SINGLE RATE ONLY IS CLAIMED," in cases where the hotel/motel receipt shows that more than one person occupied the room.
3.8.2. Trustees are responsible for cancelling hotel or other accommodation reservations in time to avoid "no show" charges, including accommodation reservations that have been made on their behalf (e.g. for attendance at Trust Council or Executive Committee meetings) ; the Islands Trust will reimburse for these charges where the trustee has no control over the circumstance and is not at fault. If necessary, such determinations will be made by the Executive Committee

3.9. Miscellaneous Expenses

3.9.1. Business Meeting Expenses
Business meeting expenses may be claimed if incurred while a trustee is on travel status. Business meeting expenses are to be approved in advance by resolution of an Islands Trust body (e.g. expenses related to a local trust committee event or function should be approved by resolution of the local trust committee).

3.9.2. Business Travel Medical Insurance
Trustees covered under the Islands Trust's extended health plan are covered for travel out-of-province or out-of-country. Before travelling out of the province or the country, trustees should discuss their coverage with the Finance Officer to

ensure appropriate coverage is in place and to understand the existing related procedures.
Trustees without extended health coverage through the Islands Trust are not covered under the group travel insurance plan. There are no exceptions.
Trustees without extended health coverage should confirm their travel medical insurance status with the Finance Officer prior to making travel arrangements.
If out-of-province or out-of-country business travel is required to conduct Islands Trust business, trustees without coverage under the Islands Trust's travel medical policy should purchase an individual travel insurance plan and claim the expense through their travel claim. When purchasing travel insurance, make sure to read and understand the fine print. Most individual travel insurance plans exclude coverage for pre-existing conditions. Trustees should carefully consider their personal health circumstances before travelling for work.

3.9.3. Travel Expenses in Foreign Locations

3.9.3.1. Foreign Locations

For travel in the U.S., meal or per diem allowances are amounts for BC in U.S. currency, which are then converted to Canadian dollars for claim purposes

3.9.3.2. Miscellaneous Foreign Travel Expenses

Trustees travelling to a foreign country should contact the Finance Officer to obtain a Islands Trust credit care.
Reimbursement may be claimed for foreign currency exchange costs and reasonable expenses incurred that relate directly to foreign travel as follows (receipts must be provided):

- car rental insurance (Collision Damage Waiver (CDW) is automatically provided when a trustee uses an Islands Trust credit card to pay for the rental vehicle)
- visa(s) and passport(s)
- inoculation(s)
- traveller's cheques
- bottled water
- preventive medication i.e., malaria tablets etc.
- premiums for additional medical insurance to provide coverage equivalent to that available under the Provincial Medical Plan in BC (Note: Premium reimbursement is only provided if the trustee is not covered under the Islands Trust's extended health plan which includes Travel Medical Insurance
- additional baggage insurance
- similar directly-related travel costs

3.9.4. Election expenses

Travel expenses related to election campaigns are the personal responsibility of the trustee.

3.9.5. Discretionary Expenditures

DRAFT

Trustees should exercise care, and use sound judgement when incurring discretionary expenditures that are not directly required to conduct Islands Trust business, as determined by:

- the authority and jurisdiction of Islands Trust bodies, as indicated in the *Islands Trust Act*
- work programs and resolutions of Islands Trust bodies

As trustees are accountable for effective management of Islands Trust finances, due regard must be given to the spirit and intent of the Islands Trust's management and financial policies. Trustees should be aware of the public perception with respect to purchases, and use the utmost discretion prior to initiating the expenditure.

3.9.6. Dependent Care Expenses

Expenses for care of a dependent that are incurred as a result of attending a meeting that requires an overnight stay or to conduct local trust committee business within a local trust area will be reimbursed in accordance with Schedule A, upon production of a receipt.

The supporting receipt must be a signed statement indicating the date(s) being charged, the hourly rate of pay, the total hours of care provided, the caregiver/agency and the total amount charged.

This reimbursement is not considered a taxable benefit, rather, a reimbursement of reasonable travelling expenses of the trustee. (These amounts must not be claimed as a childcare expense on an individual's personal income tax return).

DRAFT

Schedule A
Trustee Expense Allowance Chart

ALLOWABLE EXPENDITURE	RATE	RECEIPT REQUIRED (YES/NO)	NOTES
Accommodation	Actual cost	Yes	Trustees are responsible for utilizing accommodations where there is a BC Government negotiated rate where applicable.
Private Accommodation	Per diem for each full day on travel status	No	At the BC Government published rate.
Meals	Per diem for each full day on travel status	No	At the BC Government published rate.
Specific travel expenses (ie. Ferry, taxi, water taxi, parking, etc.)	Actual cost	Yes	
Incidental travel expenses (ie. Laundry, phone calls)	Per diem for each full day on travel status	No	At the BC Government published rate.
Vehicle mileage	Actual mileage	No	At the BC Government published rate.
Rental Vehicles	Actual cost	Yes	Trustees are responsible for requesting the BC Government negotiated rental rate
Auto Insurance – personal vehicle	Actual differential	Evidence to be provided	Differential between “Business Use” and “To and From Work” or “Pleasure Use”
Water travel – personal motor vessel	Actual mileage at $3.00 /km.	No	
Air Travel	Actual cost	Yes	
Dependent Care	Up to $50 per day	Yes	When required to attend business/ meeting with overnight stay.
	Up to $25 per day	Yes	When required to attend local/on-island business/meeting

DRAFT

7.2.iii. Guidelines

TRUSTEE TRAVEL GUIDELINES

Executive Committee: February 9, 1996

A: PURPOSE:

1. The Trustee Travel Policy is intended to supplement the Islands Trust Council bylaw which provides for Trustee Expenses and Benefits in order to provide guidelines for trustees and staff with respect to trustee travel arrangements and expense reimbursement.

B: REFERENCES:

1. Islands Trust Council Trustee Expenses and Benefits Bylaw, 1994, Bylaw No. 29.

C: GUIDELINE:

1. General

1.1. **Travel status**: Trustees are considered to be on travel status while away from their home on Islands Trust business.

1.2. **Allowable travel**: Allowable travel includes travel while on business for the following:

i. Trust Council meetings

ii. LTC (travel to Victoria office for meetings with Planner, on-island travel for meetings, site visits, etc.)

iii. Council Committee meetings

iv. Trust Fund Board

v. Other business on behalf of Trust Council (liaison, training, etc.)

1.3. **Personal travel**: Where personal and business travel are combined, reimbursement is to be based upon the level of expenditure that would have been incurred had personal travel not taken place.

2. Travel arrangements

2.1. A bylaw which provides for Trustee expenses must be duly approved by Trust Council. This bylaw contains provisions for the reimbursement of expenses related to accommodation, travel, vehicle and motor vessel mileage, ferry costs, per diems (meals, gratuities, taxi fares, cleaning expenses, parking expenses, phone calls), business expenses, rental vehicles and air/water taxi travel.

2.2. Extraordinary travel requirements including vehicle rental, air travel and water taxi, when reimbursable under the applicable bylaw. These travel requirements generally are considered to be beneficial in terms of effective use of time, reduced travel stress, reduced travel time and greater productivity. Due to the relatively high cost of these types of expenditures, extraordinary travel arrangements are subject to certain conditions, as follows:

i. Extraordinary expenditures or planned expenditures are discretionary, that is, they should be based upon a reasonable estimation of time and effort saved as compared to conventional (i.e. car/ferry) modes of transportation.

ii. Extraordinary expenditures are subject to budget availability, and as such, may not be a viable travel option if sufficient budget funds are not available.

2.3. Trustees are responsible for making their own travel arrangements. It is preferable, however, that the Islands Trust be invoiced directly for the cost of any extraordinary travel services provided and it is necessary for any travel expenditures in excess of $100 to be approved by issuance of a purchase order.

3. Receipts

3.1. Receipts are required in support of the following types of expenditures:

i. Air, bus, water taxi and ferry fares

ii. Accommodation - except private accommodation

iii. Miscellaneous:

1) Registration fees

2) Miscellaneous expenses not covered in per diem such as extraordinary taxi expenses and long distance phone calls.

iv. Per Diem expenses: Receipts are not required to support those expenditures covered by per diem allowances.

4. Expense reimbursement

4.1. Allowable expenditures and rates of reimbursement are specified in Schedule "A" of Islands Trust Council Bylaw No. 29, which provides for Trustee Expenses and Benefits.

4.2. Travel claims for reimbursement of allowable expenses, in an approved format, should be completed and submitted on a monthly basis. Payment is generally made within 30 days.

ISLANDS TRUST COUNCIL

BYLAW NO. 85

****

A Bylaw to Amend the "Islands Trust Council Trustee Expenses and Benefits Bylaw, 1995"

****

The Islands Trust Council, having jurisdiction in respect of the Trust Area in the Province of British Columbia pursuant to the *Islands Trust Act*, enacts as follows:

1. Islands Trust Council Bylaw No. 29, cited as "Islands Trust Council Trustee Expenses and Benefits Bylaw, 1995" is amended as follows:

   a) by removing Schedule A in its entirety and substituting Schedule A as appended to this bylaw.

2. This Bylaw may be cited for all purposes as the "Islands Trust Council Trustee Expenses and Benefits Bylaw, 1995, Amendment Bylaw No. 1, 2001".

READ A FIRST TIME THIS	14TH	DAY OF	SEPTEMBER	, 2001
READ A SECOND TIME THIS	14TH	DAY OF	SEPTEMBER	, 2001
READ A THIRD TIME THIS	14TH	DAY OF	SEPTEMBER	, 2001
ADOPTED THIS	20TH	DAY OF	DECEMBER	, 2001

SECRETARY

CHAIRPERSON

ISLANDS TRUST COUNCIL
BYLAW NO. 85

SCHEDULE "A"

Islands Trust
Reimbursement of Trustee Expenses
(Effective April 1, 2001)

1. Accommodation

   a) The Islands Trust will reimburse the lesser of the current published government rate or actual cost.

   b) Exceptions will be considered and authorized by an Executive Committee member where the government rate cannot be obtained.

2. Private Accommodation

   a) The Islands Trust will reimburse $30 per night where accommodation is obtained privately.

3. Per Diem

   a) The per diem is $55 per day.

   b) Deduct from the above amounts for meals if not on travel status or if meals provided: $8 for Breakfast, $10 for Lunch and $15 for Dinner.

   c) Residual amount of $22 if no meals claimed is intended to cover incidental expenses such as phone calls, laundry and gratuities.

4. Vehicle Mileage

   a) $.43 per km for use of personal vehicle.

   b) Appropriate vehicle insurance must be maintained (see 8.b).

5. Water Travel

   a) $1.50 per km for use of personal motor vessel.

   b) Appropriate insurance must be maintained.

6. Travel Expenses

   a) Actual cost for ferry, taxi, parking, tolls, etc.

7. Dependent Care

   a) Up to $50 per day when required to attend business/meeting with overnight stay.

   b) Up to $25 per day when required to attend local/on-island business/meeting.

   c) Reimbursement will be made upon production of a receipt and shall include the applicable dates/time, hourly rate charged and shall identify the caregiver/agency.

8. Auto Insurance

a) The Islands Trust shall reimburse the differential between 'Business Use' and 'To and From Work' or 'Pleasure Use'.

b) It is the individual's responsibility to maintain appropriate insurance coverage per Insurance Corporation of British Columbia regulations.

c) Reimbursement will be made upon production of evidence of the cost differential.

9. Business Expenses

a) Actual costs of office supplies, faxing and photocopying services.

10. Business Phone Calls

a) Actual costs for business related long distance toll charges including reimbursement of long distance discount plan fees.

11. Rental Vehicles

a) Actual cost of rental with receipts.

b) The B.C. Government Standing Agreement rental rate should be requested when renting a vehicle.

c) The Collision Damage Waiver (CDW) option should not be purchased, as this coverage is provided under the Standing Agreement.

12. Private Vehicle Damage Reimbursement

a) The Islands Trust will reimburse a maximum of $500 per occurrence, in accordance with B.C. Government Financial Administration Procedures (S.4F1) for vandalism or damage as a result of an accident while on Islands Trust business.

b) Repairs must be completed prior to submitting a claim.

c) This section will not apply where a court holds that the driver of the vehicle is guilty of willful, wanton or gross negligence.

13. Air travel/Water Taxi

a) Actual costs of travel with receipts.

b) Where these costs exceed $150 and are to be billed directly to the Islands Trust, an authorized Purchase Order must be issued to the carrier.

14. Computer/Internet

a) Costs for personal Internet service will be reimbursed at the rate of $6 per month or $72 per year.

b) Reimbursement will be made upon submission of a copy of an Internet Service Provider contract.

ISLANDS TRUST COUNCIL

BYLAW NO. 29

****

A Bylaw to Provide for Trustee Expenses and Benefits

****

WHEREAS it is provided by Section 10 of B.C. Regulations 119/90 and Section 780 of the Municipal Act that the Islands Trust may, with the approval of the Minister of Municipal Affairs, provide for all or part of the expenditures made or expenses incurred by a trustee when a trustee is representing the Islands Trust or on Islands Trust business; and

WHEREAS it is provided by Section 10 of B.C. Regulations 119/90 and Section 780.1 of the Municipal Act that the Islands Trust Council must prepare a report of remuneration and expenses for trustees; and

WHEREAS it is provided by Section 10 of B.C. Regulation 119/90 and Section 779.1 of the Municipal Act that Trust Council may provide for trustee benefits;

NOW THEREFORE the Islands Trust Council enacts as follows:

1. Local trustees shall be reimbursed for expenditures made or expenses incurred when representing the Islands Trust or on Islands Trust business, as specified in Schedule "A" which is attached hereto and forms part of this bylaw.

2. Trust Council shall, at least once a year, prepare a report separately listing the total remuneration and the total amount of expense payments for all local trustees. This report must be considered by Trust Council at least once a year, and the report shall be available for public inspection at the Islands Trust office during regular office hours.

3. Upon payment of 25 cents per page beyond the first 10 pages, the report referred to in section 2 of this bylaw shall be provided to the public as requested.

4. Trust Council may enter into agreements for benefits for all or some of its local trustees and their dependants, including medical and dental services and insurance policies.

5. Trust Council may provide all or part of a premium required by an agreement under section 4 of this bylaw for accident insurance coverage for local trustees while on Islands Trust business.

6. Other than a premium referred to in section 5 of this bylaw, Trust Council must not provide all or part of the premium required by an agreement under section 4 of this bylaw.

7. This Bylaw may be cited for all purposes as the "Islands Trust Council Trustee Expenses and Benefits Bylaw, 1995".

READ A FIRST TIME THIS 9th day of December , 1994

READ A SECOND TIME THIS 9th day of December , 1994

READ A THIRD TIME THIS 9th day of December , 1994

THIRD READING RESCINDED THIS 16th day of September , 1995

AMENDED THIRD READING GIVEN THIS 16th day of September , 1995

RECONSIDERED, AND FINALLY ADOPTED THIS 9th day of March , 1996

_____ SECRETARY

_____ CHAIRPERSON

ISLANDS TRUST COUNCIL
BYLAW NO. 29

SCHEDULE "A"

Islands Trust
Reimbursement of Trustee Expenses

(Effective August 1, 1995)

1. Accommodation

    a) The Trust will reimburse the lesser of the current published government rate or actual cost.

    b) Exceptions will be considered and authorized by an Executive Committee member where the government rate cannot be obtained.

2. Private Accommodation

    a) The Trust will reimburse $30 per night where accommodation is obtained privately.

3. Per Diem

    a) The per diem is $55 per day.

    b) Deduct from the above amounts for meals if not on travel status or if meals provided: $8 for Breakfast, $10 for Lunch and $15 for Dinner.

    c) Residual amount of $22 if no meals claimed is intended to cover incidental expenses such as phone calls, laundry and gratuities.

4. Vehicle Mileage

    a) $.35 per km for use of personal vehicle.

    b) Appropriate vehicle insurance must be maintained (see 8.b).

5. Water Travel

    a) $1.50 per km for use of personal motor vessel.

    b) Appropriate insurance must be maintained.

6. Travel Expenses

    a) Actual cost for ferry, taxi, parking, tolls, etc.

7. Dependent care

    a) Up to $50 per day when required to attend business/meeting with overnight stay.

b) Up to $25 per day when required to attend local/on-island business/meeting.

c) Reimbursement will be made upon production of a receipt and shall include the applicable dates/times, hourly rate charged and shall identify the caregiver/agency.

8. Auto Insurance

a) The Trust shall reimburse the differential between 'Business Use' and 'To and From Work' or Pleasure Use'.

b) It is the individual's responsibility to maintain appropriate insurance coverage per I.C.B.C. regulations.

c) Reimbursement will be made upon production of evidence of the cost differential.

9. Business Expenses

a) Actual cost of office supplies, faxing and photocopying services.

10. Business phone calls

a) Actual costs for business related long distance toll charges including reimbursement of long distance discount plan fees.

11. Rental Vehicles

a) Actual cost of rental with receipts.

b) The B.C. Government Standing Agreement rental rate should be requested when renting a vehicle.

c) The Collision Damage Waiver (CDW) option should not be purchased, as this coverage is provided under the Standing Agreement.

12. Private Vehicle Damage Reimbursement

a) The Trust will reimburse a maximum of $500 per occurrence, in accordance with B.C. Government Financial Administration Procedures (S.4B12C) for vandalism or damage as a result of an accident while on Trust business.

b) Repairs must be completed prior to submitting a claim.

c) This section will not apply where a court holds that the driver of the vehicle is guilty of willful, wanton or gross negligence.

13. Air travel/Water Taxi

a) Actual costs of travel with receipts.
b) Where these costs exceed $100 and are to be billed directly to the Islands Trust, an authorized Purchase Order must be issued to the carrier.

REQUEST FOR DECISION

To: Trust Council **For the Meeting of:**: June 18-19, 2014

From: Financial Planning Committee **Date:** June 2, 2014

SUBJECT: AMENDMENT TO POLICY 6.3.I BUDGET PROCESS POLICY

RECOMMENDATION: That the Islands Trust Council adopt amendments to *Policy 6.3.i. Budget Process Policy,* dated June 18, 2014*.*

CHIEF ADMINISTRATIVE OFFICER COMMENTS: As the budget process for 2015/16 is beginning, management has recommended several amendments to the Budget Process Policy, updating the existing policy to more accurately reflect current procedures. Financial Planning Committee has reviewed and approved the recommendations for Trust Council's consideration.

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL:
Adoption of an updated policy would reflect current procedures and practices that have shifted over the years.

FINANCIAL:
None.

POLICY:
This recommendation would amend Policy 6.3.i. Budget Process Policy.

IMPLEMENTATION/COMMUNICATIONS:
The revised policies will be circulated to holders of the Islands Trust Policy Manual and placed on the Islands Trust website. It will also be reviewed with all staff who are involved in the budget process.

OTHER:
None.

BACKGROUND

Policy 6.3.i was established in 2001 and was last amended in 2005. The budgeting process is the major decision-making process for Islands Trust activities. Once the process is completed, the budget plan is the legal framework for revenue collection and spending. The purpose of this policy is to provide a framework for the planning, preparation, presentation and approval of the annual budget bylaw and financial plan to ensure overall effectiveness and clarity for Trust Council's budget discussions and decision making.

REPORT/DOCUMENT:

- Attachment 1 Policy 6.3.i. Budget Process Policy (marked up version)
- Attachment 2 Policy 6.3.i Budget Process Policy (final proposed version)

KEY ISSUE(S)/CONCEPT(S):

Effective decision making process for the planning, preparation, presentation and approval of the annual budget bylaw and financial plan.

RELEVANT POLICY:

Islands Trust Policy 6.3.ii Special Property Tax Requisition
Islands Trust Policy 6.5.i General Revenue Fund Surplus
Islands Trust Policy 7.2.vi Municipal Tax Requisition Calculation

DESIRED OUTCOME:

A more accurate reflection of current procedures and practices related to the budget process.

RESPONSE OPTIONS

Recommended:
That the Islands Trust Council adopt amendments to *Policy 6.3.i. Budget Process Policy,* dated June 18, 2014

Alternative:

- That different revisions to Policy 6.3.i. Budget Process Policy be adopted.
- That Policy 6.3.i. Budget Process Policy, not be amended at this time.

Prepared By: C. Shelest, Director of Administrative Services

Reviewed By/Date: Linda Adams, Chief Administrative Officer - May 26, 2014

Financial Planning Committee - June 2, 2014

Executive Committee – June 3, 2014

Chief Administrative Officer

Attach 1

6.3.i. Policy

BUDGET PROCESS POLICY

Trust Council: June 15, 2001
Amended: September 14, 2001; December 9, 2005; June 18, 2014

A: PURPOSE: **The budgeting process is the major decision-making process for Islands Trust activities. Once the process is completed, the budget plan is the legal framework for revenue collection and spending. The purpose of this policy is to** ~~To~~ provide a framework for the planning, preparation, presentation and approval of the annual budget bylaw and financial plan to ensure overall effectiveness and clarity for Trust Council's budget discussions and decision making.

B: REFERENCES: *Islands Trust Act*
Islands Trust Policy 6.3.ii Special Property Tax Requisition
Islands Trust Policy 6.5.i General Revenue Fund Surplus
Islands Trust Policy 7.2.vi Municipal Tax Requisition Calculation

C: POLICY:

1. The Budget Process

a) The Treasurer, on behalf of Trust Council, is responsible for designing and implementing the annual budget process;
b) The process for developing the annual budget will be approved by Trust Council each year; and
c) The budget process will include the following components:
- Timeframe for developing the budget
- Strategy for consultation with all stakeholders
- Opportunities for identifying program priorities

2. Planning the Budget

~~a) Internal stakeholders for the budget process include local trust committees, Trust Fund Board, and staff and the publicunits; external stakeholders include island municipalities, Ministry of Community Services, regional districts and the public;~~
~~b) A mechanism for all stakeholders to provide input to the budget process shall be developed;~~
a) Stakeholders in the budget process are set out in Appendix A and include local trust committees, island municipalities, Trust Fund Board, staff and the public.
~~c)~~b) A budget process timetable (similar to sample attached in Appendix B) is ~~shall be~~ presented for approval to~~by~~ Trust Council in September of each year;
~~d)~~c) Budget Principles and Assumptions are approved by Trust Council ~~shall be addressed~~ in December of each year;
~~e) A budget orientation session shall be held in September of each year, however during the year of a general election, the orientation shall be held in December; and~~
~~f) A priority setting session shall be held in December of each year.~~

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3. Preparation of the Budget

a) Immediately after a new- fiscal year begins, the Director of Administrative Services begins making plans for the budget that will be considered by Trust Council for the subsequent fiscal year.

b) Each line of the Detailed Budget is reviewed on a needs-basis by the responsible budget manager, giving consideration to previous years' spending and future work programs and services (including Trust Council's Strategic Plan initiatives).

c) Local Trust Committees are asked to provide their project needs and review their Local Trust Committee expense budgets, passing any resolutions required to adopt/modify their budget proposals.

d) Directors review their respective Committee work programs to ensure work plan activities are appropriately funded.

e) The Trust Fund Board will be consulted directly, at the beginning of, and throughout, the budget process with respect to Board requirements, ~~P~~programs and administrative services~~,~~. Appointed trustees ~~and~~ of the Trust Fund Board shall be given the opportunity to attend Financial Planning Committee and Trust Council meetings with observer status;

f) As provided for in Islands Trust Council Policy *7.2.vi Municipal Tax Requisition Calculation,* Island Municipalities will be consulted directly at the beginning of, and throughout, the budget process;

~~a)~~g) The Director of Administrative Services reviews the detailed spending and projects costs on behalf of the organization with respect to completeness and accuracy and compiles the Detailed Budget for the year. The overall Detailed Budget is reviewed by Islands Trust Management Team prior to be submitted to the Financial Planning Committee for review and consideration.~~The main components of the budget process include the Base Budget, Programs, Revenue, Five Year Forecast and a Provincial Funding Request~~;

~~b)~~h) The budget will build towards, and/or maintain, the General Revenue Fund Surplus to the level that is recommended in Islands Trust Council Policy ~~by the Financial Planning Committee by budgeting a year-end surplus or by including a budget line "Contribution to Surplus";~~*6.5.i General Revenue Surplus Fund*

~~c) A process for public input into the annual budget shall be provided each year;~~

Local trust committees will be consulted with throughout the budget process to ensure they understand and are following the process for any special property tax ~~requistinos~~requisitions as set out in Islands Trust Policy 6.3.ii Special Property Tax Requisitions. ~~and staff units will be consulted throughout the budget process with respect to the requirements, implications and options for dealing with budget requests~~;

~~d) Municipalities will be consulted directly at the beginning of, and throughout, the budget process with respect to contract planning service fees and property assessment factors and tax rates for Trust Area Services;~~

~~e) The Trust Fund Board will be consulted directly, at the beginning of, and throughout, the budget process with respect to Board requirements, Programs and administrative services, and shall be given the opportunity to attend Financial Planning Committee and Trust Council meetings with observer status;~~

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~~f) Budget workshops will generally be held in September, December and March of each year, with adequate time being scheduled to cover the necessary steps of the budget process; and~~

~~g) The workshops will be held in an open public meeting.~~

i) A process for public input into the annual budget ~~is~~will be provided each year, as determined by the Financial Planning Committee.

~~**3. Presentation and Approval of the Budget**~~

~~a) Trust Council shall approve the annual budget and/or financial plan in March of each year;~~

~~b) Formal resolutions to direct the preparation of a budget bylaw will be made at the conclusion of the workshop; and~~

~~c) The budget bylaw will be presented for consideration during the regular business meeting.~~

5. Responsibilities

a) The Treasurer is responsible for:
- designing, implementing and leading the annual budget process; and
- ensuring effective linkages to the process for internal and external stakeholders.

b) Managers and Directors are responsible for:
- coordinating the budget requirements for their departments; and
- submitting budget submissions when requested.

c) The Financial Planning Committee is responsible for:
- providing direction to Management in developing a long-range financial plan;
- recommending the appropriate amount to be held in the General Revenue Fund Surplus;
- interpretation of Council's priorities and strategies;
- reviewing all budget proposals;
- developing and recommending ~~presenting~~ the budget to Trust Council and providing guidance into the decision-making process; and
- designing the process for public input.

d) Trust Council is responsible for:
- identifying budget priorities;
- developing a strategic plan for the organization;
- directing the Treasurer to prepare a budget bylaw; and
- approving the annual budget bylaw.

e) The Trust Fund Board is responsible for:
- endorsing all budget requests for the Trust Fund's Board and Program operations.

APPENDIX A: Stakeholders

The following stakeholders provide input into the budget:

Financial Planning Committee	Develop and recommend the annual budget to Trust Council. Review all budget proposals. Recommend the appropriate amount to be held in General Revenue Surplus Fund. Review and approve financial reporting to Trust Council. Present the budget to Trust Council and provide guidance into the decision-making process.
Local Trust Committees	Discuss budget requests and work programs with planning staff. Provide budget requests to Director of Local Planning Services for review and allocation of resources. Be aware of the provisions of Policy 6.3.ii Special Property Tax Requisitions, which permits or in some cases, requires an individual local trust committee to request a special property tax requisition for additional operations that are not included within the general operations of all local trust committees.
Bowen Island Municipality	Review and confirm proposed municipal tax requisition calculation.
Trust Fund Board	Discuss budget requests and work programs with Trust Area Services staff. Endorse all budget requests for the Trust Fund's Board and program operations.
The Public	Review budget documents and be provided opportunity to comment prior to Trust Council adoption.
Management	Coordinate the review of budget requirements for each department in order to meet current Trust Council objectives and service levels. Look for opportunities to incorporate efficiencies and savings in the organization.

APPENDIX B: Budget Timelines

August FPC Meeting	Financial Planning Committee reviews draft budget assumptions and principles.
October FPC Meeting	Financial Planning Committee reviews and discusses the first draft of the budget.
November FPC Meeting	Financial Planning Committee approves the draft budget and the draft budget assumptions and principles to be submitted to December Trust Council.
December Trust Council meeting	Trust Council endorses the draft budget for the purposes of seeking public input and supports the draft budget assumptions and principles recommended by Financial Planning Committee.
January	Consult with Bowen Island Municipality regarding the municipal tax requisition calculation. Financial Planning Committee reviews public consultation materials at their January meeting. In order to meet the Trust Council's continued commitment to transparency and dialogue with the community, the Financial Planning Committee seeks public input on the draft budget.
February FPC Meeting	Financial Planning Committee reviews the draft budget and public input regarding the budget. Financial Planning Committee makes recommendations for March Trust Council on property tax requisition, Bowen Island Municipality tax levy and any local trust committee special tax requisitions.
March Trust Council Meeting	At its March regular business meeting, Trust Council approves the final budget and financial plan. Formal resolutions to direct the preparation of the financial plan and revenue anticipation borrowing bylaws will be made. Financial plan and revenue anticipation bylaws forwarded to Ministry of Community, Sport, and Cultural Development for approval.

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Attach 2

6.3.i. Policy

BUDGET PROCESS POLICY

Trust Council: June 15, 2001
Amended: September 14, 2001; December 9, 2005; June 18, 2014

A: PURPOSE: The budgeting process is the major decision-making process for Islands Trust activities. Once the process is completed, the budget plan is the legal framework for revenue collection and spending. The purpose of this policy is to provide a framework for the planning, preparation, presentation and approval of the annual budget bylaw and financial plan to ensure overall effectiveness and clarity for Trust Council's budget discussions and decision making.

B: REFERENCES: *Islands Trust Act*
Islands Trust Policy 6.3.ii Special Property Tax Requisition
Islands Trust Policy 6.5.i General Revenue Fund Surplus
Islands Trust Policy 7.2.vi Municipal Tax Requisition Calculation

C: POLICY:

1. The Budget Process

a) The Treasurer, on behalf of Trust Council, is responsible for designing and implementing the annual budget process;
b) The process for developing the annual budget will be approved by Trust Council each year; and
c) The budget process will include the following components:
- Timeframe for developing the budget
- Strategy for consultation with all stakeholders
- Opportunities for identifying program priorities

2. Planning the Budget

a) Stakeholders in the budget process are set out in Appendix A and include local trust committees, island municipalities, Trust Fund Board, staff and the public.
b) A budget process timetable (similar to sample attached in Appendix B) is presented for approval to Trust Council in September of each year;
c) Budget Principles and Assumptions are approved by Trust Council in December of each year;

3. Preparation of the Budget

a) Immediately after a new fiscal year begins, the Director of Administrative Services begins making plans for the budget that will be considered by Trust Council for the subsequent fiscal year.

b) Each line of the Detailed Budget is reviewed on a needs-basis by the responsible budget manager, giving consideration to previous years' spending and future work programs and services (including Trust Council's Strategic Plan initiatives).
c) Local Trust Committees are asked to provide their project needs and review their Local Trust Committee expense budgets, passing any resolutions required to adopt/modify their budget proposals.
d) Directors review their respective Committee work programs to ensure work plan activities are appropriately funded.
e) The Trust Fund Board will be consulted directly, at the beginning of, and throughout, the budget process with respect to Board requirements, programs and administrative services. Appointed trustees of the Trust Fund Board shall be given the opportunity to attend Financial Planning Committee and Trust Council meetings with observer status;
f) As provided for in Islands Trust Council Policy *7.2.vi Municipal Tax Requisition Calculation,* Island Municipalities will be consulted directly at the beginning of, and throughout, the budget process;
g) The Director of Administrative Services reviews the detailed spending and projects costs on behalf of the organization with respect to completeness and accuracy and compiles the Detailed Budget for the year. The overall Detailed Budget is reviewed by Islands Trust Management Team prior to be submitted to the Financial Planning Committee for review and consideration.;
h) The budget will build towards, and/or maintain, the General Revenue Fund Surplus to the level that is recommended in Islands Trust Council Policy *6.5.i General Revenue Surplus Fund*
Local trust committees will be consulted with throughout the budget process to ensure they understand and are following the process for any special property tax requisitions as set out in Islands Trust Policy 6.3.ii Special Property Tax Requisitions. ;
i) A process for public input into the annual budget will be provided each year, as determined by the Financial Planning Committee.

5. Responsibilities

a) The Treasurer is responsible for:
- designing, implementing and leading the annual budget process; and
- ensuring effective linkages to the process for internal and external stakeholders.

b) Managers and Directors are responsible for:
- coordinating the budget requirements for their departments; and
- submitting budget submissions when requested.

c) The Financial Planning Committee is responsible for:
- providing direction to Management in developing a long-range financial plan;
- recommending the appropriate amount to be held in the General Revenue Fund Surplus;
- interpretation of Council's priorities and strategies;
- reviewing all budget proposals;

- developing and recommending the budget to Trust Council and providing guidance into the decision-making process; and
- designing the process for public input.

d) Trust Council is responsible for:
- identifying budget priorities;
- developing a strategic plan for the organization;
- directing the Treasurer to prepare a budget bylaw; and
- approving the annual budget bylaw.

e) The Trust Fund Board is responsible for:
- endorsing all budget requests for the Trust Fund's Board and Program operations.

APPENDIX A: Stakeholders

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Financial Planning Committee	Develop and recommend the annual budget to Trust Council. Review all budget proposals. Recommend the appropriate amount to be held in General Revenue Surplus Fund. Review and approve financial reporting to Trust Council. Present the budget to Trust Council and provide guidance into the decision-making process.
Local Trust Committees	Discuss budget requests and work programs with planning staff. Provide budget requests to Director of Local Planning Services for review and allocation of resources. Be aware of the provisions of Policy 6.3.ii Special Property Tax Requisitions, which permits or in some cases, requires an individual local trust committee to request a special property tax requisition for additional operations that are not included within the general operations of all local trust committees.
Bowen Island Municipality	Review and confirm proposed municipal tax requisition calculation.
Trust Fund Board	Discuss budget requests and work programs with Trust Area Services staff. Endorse all budget requests for the Trust Fund's Board and program operations.
The Public	Review budget documents and be provided opportunity to comment prior to Trust Council adoption.
Management	Coordinate the review of budget requirements for each department in order to meet current Trust Council objectives and service levels. Look for opportunities to incorporate efficiencies and savings in the organization.

APPENDIX B: Budget Timelines

August FPC Meeting	Financial Planning Committee reviews draft budget assumptions and principles.
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December Trust Council meeting	Trust Council endorses the draft budget for the purposes of seeking public input and supports the draft budget assumptions and principles recommended by Financial Planning Committee.
January	Consult with Bowen Island Municipality regarding the municipal tax requisition calculation. Financial Planning Committee reviews public consultation materials at their January meeting. In order to meet the Trust Council's continued commitment to transparency and dialogue with the community, the Financial Planning Committee seeks public input on the draft

	budget.
February FPC Meeting	Financial Planning Committee reviews the draft budget and public input regarding the budget. Financial Planning Committee makes recommendations for March Trust Council on property tax requisition, Bowen Island Municipality tax levy and any local trust committee special tax requisitions.
March Trust Council Meeting	At its March regular business meeting, Trust Council approves the final budget and financial plan. Formal resolutions to direct the preparation of the financial plan and revenue anticipation borrowing bylaws will be made. Financial plan and revenue anticipation bylaws forwarded to Ministry of Community, Sport, and Cultural Development for approval.

DIRECTOR OF TRUST AREA SERVICES
2014-2015 FIRST QUARTER REPORT

Date: May, 2014

COMPLETED SINCE LAST REPORT	PLANNED FOR NEXT QUARTER
1. TRUST COUNCIL / TRUST PROGRAMS COMMITTEE • Delivered 2013-2014 Annual Report • Sent four letters to delegates at Dec Trust Council • Delivered 2014 Community Stewardship Awards to Trust Council • See advocacy achievements below • See strategic plan achievements below	• Finalize, format and print 2013-2014 annual report for distribution • Continue to update water education papers as new documents emerge • Continue administering 2014 Community Stewardship Awards program
2. AGENCY LIAISON and ADVOCACY • Delivered legislative monitoring chart • Delivered RFD re advocacy costs, resources and priorities • Delivered RFD re BC Ferries advocacy • Provided advice to EC about protocols with San Juan County • Prepared decision documents re Executive Committee position on resolutions at AVICC Convention • Drafted Chair letters to: o Tanker Safety Expert Panel re potential Ship-source Hazardous and Noxious Substances (HNS) Incident Preparedness and Response Regime in Canada o BC Ferry Commissioner re Request for performance review of BC Ferries o Premier of British Columbia re BC Ferries service cuts, fare hikes and infrastructure funding o Fisheries and Oceans Canada staff re Integrated Geoduck Management Framework with maps o Minister of Transportation and Infrastructure re BC Ferries economic impact analysis o Federal Minister of Transport and provincial Minister of Forests, Lands and Natural Resource Operations re cooperating to develop new derelict vessel legislation and programs o AVICC Members and Bowen Island Municipal Council re cooperating on new derelict vessel legislation o Minister of Agriculture re proposed changes to the Agricultural Land Reserve o BC Minister of Environment re land based spills • Staff attended Standing Senate Committee on Fisheries and Oceans public hearing in Nanaimo re aquaculture • Staff attended Howe Sound Community Forum meeting in West Vancouver about BC's Cumulative Impacts Framework • Staff participated in two meetings of the Joint Working Group for the Removal of Derelict Vessels in BC (teleconference) • Staff attended Canada Coast Guard/US Coast Guard in Washington State trans-boundary oil spill response exercise as an invited observer • Reviewed FOI request re BC Ferries economic impact analysis	• Ongoing tracking of legislative and major policy / program changes in all levels of government • Evaluate 2011-14 advocacy program • Develop draft framework for assessing advocacy campaign priorities and methods • Support engagement by Trust Council and trustees on BC Ferries issues • Continue implementing marine advocacy program (derelict vessels, pleasure craft sewage, NMCA) • Letter of comment to the National Energy Board regarding Kinder Morgan's Trans Mountain Pipeline Expansion Project • Update memorandum of understanding with the BC agency responsible for Crown Lands • Review need to revise Trust Council protocol agreement with Industry Canada regarding land use consultation for radio communication utilities

COMPLETED SINCE LAST REPORT	PLANNED FOR NEXT QUARTER
3. COMMUNICATIONS • Hosted Web Advisory Group Meeting (May 20) • Created new web page re shellfish aquaculture advocacy • Completed design templates for variety of themed communications tools in collaboration with LPS (ads, newsletters, pamphlets, posters, brochures, public notices and PowerPoint) • Assisted Chair with Op Ed re BC Ferries (Without Marine Transportation, We're All Sunk) • News Releases: o Islands Trust Council Approves 2014-2015 Budget with No Tax Increase o North Pender Community Stewardship Day o Islands Trust Council Chair Condemns Provincial Betrayal on BC Ferries Policy o Denman Island Local Trust committee Halts Bylaw o Enforcement Actions Related to Pentlatch Seafoods Ltd. o Metal Recycling Operations to Proceed No Further o Community Stewardship Awards o June Islands Trust Council Program • Two letters to the editor re: bylaw enforcement on SSI • Installed 40th anniversary banner for letterhead and news releases • Regular tweets: 520 followers up from 480 previous quarter	• Continuously improve website and user's manual as time allows. • Implement high priority items on EC's communications work plan • Track communications policies to be updated • Host Communications Advisory Group #2 • Provide service to BIM upon request
4. HUMAN RESOURCES • Completed revisions of job profile and reclassification of Policy Analyst position from 24 to 27 • Worked with management team on organizational improvements requested in staff survey • Attended LPS Pro D day and LPS management meetings	• Revise Communications Specialist job profile to reflect increased emphasis on electronic communications • Quarterly check-in with TAS staff on achieving objectives in performance plans
5. ISLANDS TRUST FUND • See Trust Fund Quarterly Report in agenda package	

TRUST FUND BOARD
REPORT TO TRUST COUNCIL
1st Quarter 2014-2015

COMPLETED SINCE LAST REPORT	PLANNED FOR NEXT QUARTER
1. STRATEGIC PLANNING/ ADMINISTRATION	
Reviewed applicants for upcoming vacancy on TFB; made recommendations to Board Resourcing Development Office Shared eelgrass mapping with Ministry of Forest Lands and Natural Resource Operations and Parks Canada for NMCA Contracted 2014-2015 eelgrass mapping Posted Eelgrass and Forage Fish mapping to MapIT and TAPIS (staff mapping resource) Inquiry regarding Crown Grant selection process for Lasqueti sent to Qualicum First Nation Presented to planning staff on species and ecosystems at risk	Implement landowner outreach pilot program Continue policy review work, with an emphasis on fundraising related policies Continue work with the Coastal Douglas-fir and Associated Ecosystems Conservation Partnership (CDFCP) Review and edit ecosystem mapping on MapIT website Circulate final forage fish mapping report to Thetis, Hornby and Denman LTCs as well as conservation partners and arrange posting to Islands Trust website
2. COVENANT AND PROPERTY ACQUISITIONS	
Initiated covenant negotiation for the John Osland Nature Reserve (Lasqueti) with Lasqueti Island Nature Conservancy and the Nanaimo and Area Land Trust (NALT) Approved negotiation of 2 new covenants (1 on South Pender and 1 one North Pender) Completed baseline inventory reports for the John Osland Nature Reserve and the C. Cunningham Nature Reserve	Negotiate three NAPTEP covenants (1 on Hornby, 1 on Salt Spring, 1 on North Pender) and three regular covenants (1 on Salt Spring, 1 on North Pender, 1 on South Pender) Continue to negotiate covenant for the C. Cunningham Nature Reserve and negotiate covenant for the John Osland Nature Reserve (Lasqueti) Negotiate transfer of a 5 hectare (12.5 acre) protected area on Salt Spring Assist Thetis Island Nature Conservancy with acquisition campaign to purchase a 16 hectare property known as Burchell Hill

As of June 2014 the Trust Fund Board
owns 25 properties and holds 67 covenants (of which 22 have NAPTEP certificates)

TRUST FUND BOARD
REPORT TO TRUST COUNCIL
1st Quarter 2014-2015

3. PROPERTY AND COVENANT MANAGEMENT	
Renamed DL 58 Nature Reserve (Galiano) with help from Galiano elementary school. Now known as Vanilla Leaf Land Nature Reserve Species at Risk study completed at Vanilla Leaf Land to identify presence of any species of concern (Galiano) Ecological inventory for management plan complete for Burren's Acres (Gabriola)	Repair stairs and improve trail to beach at Ruby Alton Nature Reserve Protect the root area around two large trees in Elder Cedar NR where soil compaction is negatively affecting health of trees (Gabriola) Complete annual monitoring of all covenants and properties
4. COMMUNICATIONS	
News Releases issued about: • Forage Fish Mapping • Carbon Storage and Sequestration in Islands Trust area Issued revised NAPTEP rack card Posted Forage Fish mapping to Islands Trust Fund website Prepared 2013-14 Annual Report Distributed e-news updates to email subscribers (1) and trustees (1) Implemented new subscriber tool	Continue edits and adding new content for ITF website Design and print new brochure: How to protect your land Coordinate landowner outreach projects on Lasqueti and the Pender Islands Summer edition of The Heron (newsletter of the ITF)
5. FUNDRAISING AND CONSERVANCY SUPPORT	
Negotiated and signed contract to replace ITF's client/donor database Received $20,000 restricted donation for covenant acquisition on Pender Islands: the Morrison Waxler Biodiversity Protection Legacy Fund	Continue outreach on planned giving Install new ITF client/donor database and migrate data Draft fundraising policies to fill identified gaps Develop partnership agreement re: campaign for Burchell Hill (Thetis)

As of June 2014 the Trust Fund Board
owns 25 properties and holds 67 covenants (of which 22 have NAPTEP certificates)

REQUEST FOR DECISION

To: Trust Council **For the Meeting of:**: June 18-19, 2014

From: Trust Fund Board **Date Prepared:** May 5, 2014

File No.: NP-NAP-2014.1

SUBJECT: NATURAL AREA PROTECTION TAX EXEMPTION PROGRAM (NAPTEP) CERTIFICATE, WALLACE POINT, NORTH PENDER ISLAND

RECOMMENDATION: That the Islands Trust Council request the Secretary issue a Natural Area Protection Tax Exemption Certificate for a portion of the land described as "Lot 23, Section 6, Pender Island, Cowichan District, Plan 1084, Except Part in Plan 19554." PID 008-045-453, subject to registration of a conservation covenant and completion of a baseline inventory report consistent with the standards developed for NAPTEP.

CHIEF ADMINISTRATIVE OFFICER COMMENTS: The Trust Fund Board currently holds 8 NAPTEP covenants in the North Pender Island Local Trust Area.

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL: Covenant registration will be the responsibility of ITF staff. Staff will ensure that both the covenant and the baseline inventory report meet NAPTEP standards. Once the covenant is registered the Islands Trust Secretary will be notified to issue the tax exemption certificate.

FINANCIAL: The costs of administering this application will be partly recovered through the application fees. Other associated costs such as covenant registration, survey costs and baseline costs will be covered by the landowner. Ongoing monitoring costs will be administered by the Trust Fund Board and will be approximately $500 annually.

POLICY: None

IMPLEMENTATION/COMMUNICATIONS:

- The applicant will be advised of Trust Council's decision.
- If Trust Council votes to issue a Natural Area Protection Tax Exemption Certificate, the applicant will then be required to complete the baseline inventory report, a legal survey and register the standard conservation covenant against the property title. The conservation covenant must be registered on title by October 1, 2014 for the landowner to receive a tax exemption in 2015.
- The certificate will only be issued when the above items are received.
- Once the certificate is issued to the applicant, the BC Assessment Authority, the Land Titles Office, and the Regional District and any other relevant agencies will be advised.
- ITF staff will advise the public regarding the successful completion of NAPTEP applications via a news release added website profile.

OTHER: The North Pender Local Trust Committee was provided information regarding the Wallace Point NAPTEP application at its April 23, 2014 meeting.

BACKGROUND

- A NAPTEP application was received on February 28, 2014 to covenant approximately 1.9 ha (4.69 acres) of land, including Wallace Point, North Pender Island.
- TFB staff have reviewed the proposal and confirmed that it is eligible under NAPTEP.
- The TFB has agreed to hold the conservation covenant for this application.

REPORT/DOCUMENT: Maps, property details and list of NAPTEP Values and Amenities attached.

KEY ISSUE(S)/CONCEPT(S): Approval of a Natural Area Protection Tax Exemption Certificate.

RELEVANT POLICY:
Islands Trust Act (7.1)
Islands Trust *Natural Area Protection Tax Exemption Regulation*
Trust Council procedure 2.1.x re: Administration of the NAPTEP program.

DESIRED OUTCOME: Registration of a conservation covenant to protect natural areas under the NAPTEP program.

RESPONSE OPTIONS

Recommended: As above.

Alternative: 1. To decline to issue the certificate.
2. To delay issuance of the certificate subject to receipt of additional information.

Prepared By: Kate Emmings
Ecosystem Protection Specialist

Reviewed By/Date: Jennifer Eliason, Islands Trust Fund Manager - May 7, 2014
Lisa Gordon, Director Trust Area Services - May 26, 2014
Trust Fund Board - March 24, 2014
North Pender Local Trust Committee - April 23, 2014
Executive Committee - June 3, 2014



Chief Administrative Officer

Property Information

Applicant: Michael Philpot

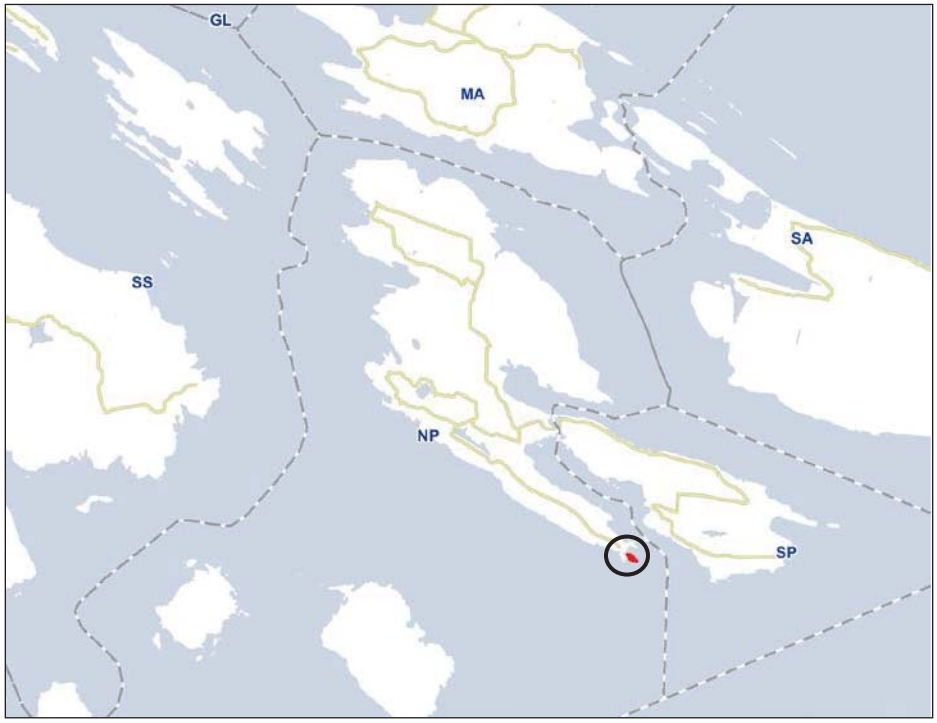
Property Description: PID 008-045-453, Lot 23, Section 6, Pender Island, Cowichan District, Plan 1084, Except Part in Plan 19554.

Property size: 2.86 ha (7.06 acres) (according to BC Assessment)

Proposed covenant size: 1.9 ha (4.69 acres)

Property notes:

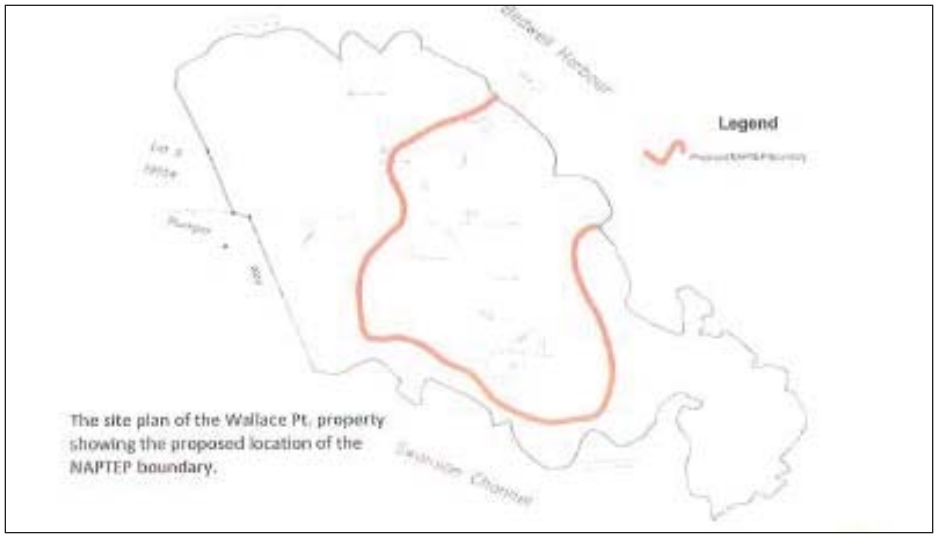
The proposed covenant area is rich in sensitive ecosystems (see Map 4). A site visit on October 16, 2013, confirmed the presence of mature woodland ecosystems (both Douglas-fir / Arbutus woodland and a small Garry oak woodland) and an herbaceous ecosystem (coastal bluff ecosystem). Coastal juniper (blue listed) was present in a small patch and the bluffs had prickly pear cactus, which is not rare, but is particular to dry rocky sites in the islands. Camas and Death camas were also noted in the NAPTEP proposal. There are two mapped eagle nest trees within the proposed covenant area and there is extensive evidence of River Otter use. There are dense Bull Kelp beds off of the point which are good fish and invertebrate habitat. Other rare plants may be present, but the site was not visited at the appropriate time for observation. The land is a point and is largely surrounded by ocean.



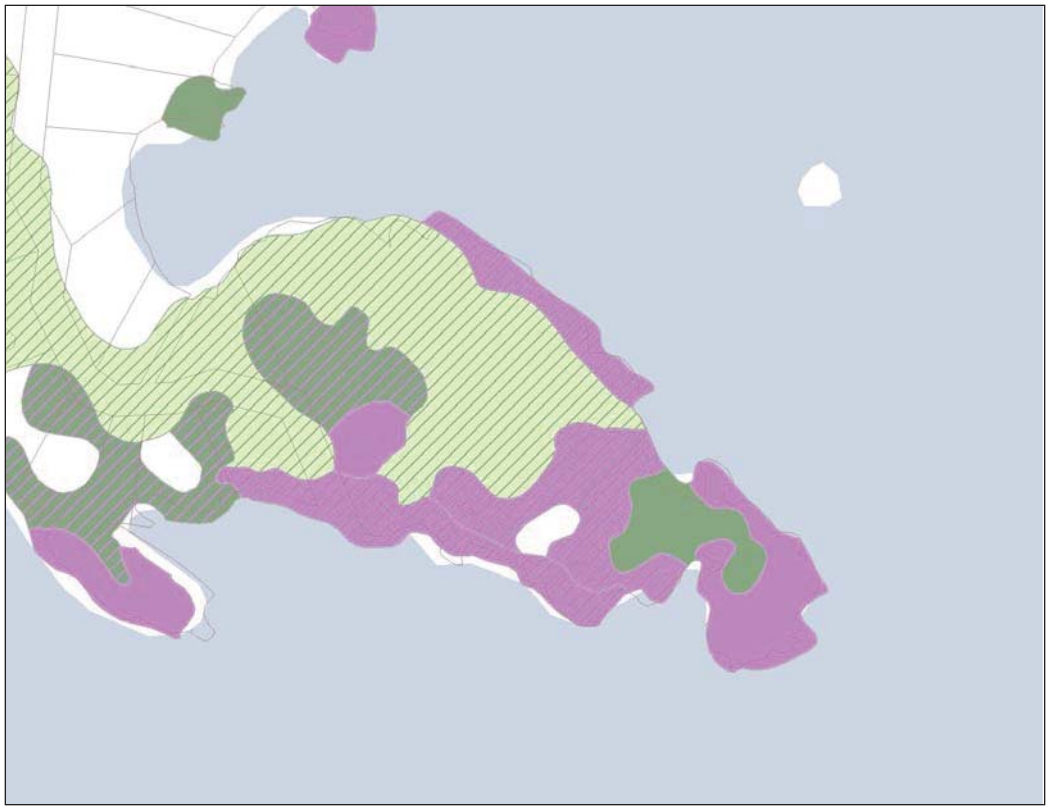
Map 1. Property Location



Map 2. 2009 Air photo.



Map 3. Proposed Covenant Boundary (note the proposed protected area includes the point and the majority of the property's shoreline, the orange outline surrounds the excluded area.)



Map 4. Sensitive Ecosystems (Islands Trust Fund)

NAPTEP Natural Values & Amenities

The natural values of the proposed covenant area, according to the NAPTEP Regulations, are listed below. Values were determined by evaluating the application submitted by the property owner and through a site visit conducted October 16, 2013.

1. ***Coastal bluff ecosystems (NAPTEP Regulation Section 2(a)):***
   The proposed covenant area includes Wallace Point which is a coastal bluff ecosystem.

2. ***Herbaceous ecosystems (NAPTEP Regulation Section 2 (a)):***
   There are patches of herbaceous ecosystems within the woodland ecosystems and along the coastline in the less "coastal bluff" areas.

3. ***Woodland Ecosystem (NAPTEP Regulation Section 2(a)):***
   Both Douglas-fir – Arbutus and Garry oak / Oceanspray ecological communities are present.

4. ***Areas that are relatively undisturbed by human activity and are key habitat for rare native plant species or plant communities (NAPTEP Regulation Section 2(b)):***
   The blue-listed Seaside juniper (*Juniperus maritima*) was observed. Additionally, the following rare plant communities were observed and have been mapped in the Terrestrial Ecosystem Mapping project for the Coastal Douglas-fir zone (2009):
   - Douglas-fir – Arbutus Ecological Community (Red listed, observed)
   - Garry oak / Oceanspray (Red listed, observed)
   - Wallace's selaginella / reindeer lichens (Blue listed) (mapped, likely)
   - Douglas-fir / Alaska oniongrass (Red listed) (mapped, potential)

TRUST PROGRAMS COMMITTEE
WORK PROGRAM REPORT

To: Islands Trust Council

Updated: May 12, 2014

WORK PROGRAM

1. **COMMUNITY STEWARDSHIP AWARDS**
   - Deliver 2014 awards program

2. **BC FERRIES ADVOCACY PROGRAM (Strategic Plan 4.2)**
   - Support engagement by Trust Council and trustees on BC Ferries issues

3. **LEGISLATIVE MONITORING**
   - Monitor changes and report to Trust Council (June 2014)

CONTINUING ITEMS

INDICATOR PROGRAM
- Research high-priority indicators, such as census and housing

VACANT CROWN LAND PROFILES
- Bowen Island, Gambier LTA, and Ballenas-Winchelsea Islands – on hold

Lisa Gordon
Designate Staff

Paul Brent
Chair

REQUEST FOR DECISION

To: Trust Council **For the Meeting of:** June 18-19, 2014

From: Executive Committee **Date Prepared:** June 3, 2014

SUBJECT: 2013-2014 ANNUAL REPORT

RECOMMENDATION:

That the Islands Trust Council approve the 2013-2014 Annual Report for submission to the Minister of Community, Sport and Cultural Development.

CHIEF ADMINISTRATIVE OFFICER COMMENTS:
Under the *Islands Trust Act*, Trust Council has the authority to approve the annual report before forwarding to the Minister responsible for the Islands Trust.

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL: None

FINANCIAL: The communications budget contains funds for graphic design, layout and printing.

POLICY: Trust Council's Annual Report Policy 6. 10.i. gives the Executive Committee responsibility for developing the outline, format and template for all sections, to ensure a consistent standard that meets legislative and other requirements for an Annual Report. Under Annual Report Policy 6.10.i Trust Council approves annual reports.

IMPLEMENTATION/COMMUNICATIONS:
Preparation of the Islands Trust Annual Report is undertaken by Trust Area Services Communications staff, reporting to the Executive Committee.

On March 4 and 18, 2014 the Executive Committee provided the following direction for changes in the way staff draft the annual report sections:

- The annual report is a status report on the policy statement and the strategic plan
- LTC reports refer only to LTC projects and agenda items, not staff workload.
- LTC reports do not report building permits or referrals unless they were on an LTC or TFB agenda and reported in the minutes.
- Bylaw enforcement (proactive or legal) is only reported when initiated by the LTC.
- Grant-funded projects are to be reported within Local Trust Committee and Trust Council Committee reports, rather than a separate section

Each local trust committee and each Council committee reviewed and approved their sections at recent meetings. Once approved and upon receipt of the Auditor's Financial Statements, this report will be professionally formatted for printing and web-publishing, and conveyed to the Minister responsible for the Islands Trust and other recipients listed in Policy 6.10.i.

OTHER: N/A

BACKGROUND

REPORT/DOCUMENT: Attached Draft 2013-2014 Annual Report

KEY ISSUE(S)/CONCEPT(S): Meeting legislative requirements for annual reporting.

RELEVANT POLICY: This approach complies with Section 19 of the *Islands Trust Act* and Trust Council's Annual Report Policy 6.10.i.

DESIRED OUTCOME: Timely reporting of Trust Council's achievements.

RESPONSE OPTIONS

Recommended: That the Islands Trust Council approve the 2013-2014 Annual Report for submission to the Minister of Community, Sport and Cultural Development.

Alternative: Approve the report as amended by Trust Council

Prepared By: Laura Stringer, Communications Specialist

Reviewed By/Date: Lisa Gordon, Trust Area Services Director, May 27, 2014
Executive Committee, June 3, 2014



Chief Administrative Officer

DRAFT Islands Trust Annual Report 2013-2014

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Message from the Islands Trust Council Chair

Chair's message

It's been 40 years since the *Islands Trust Act* was proclaimed in recognition of the special nature of our island ecosystems and communities. I'm delighted there's such progress toward our mandate of *preservation and protection for the benefit of all British Columbians*. Eighteen percent of the Islands Trust Area is in permanent protection, island populations have grown, our economies are diverse, and our regulatory framework to protect ecology and shape development is informed and tested by highly engaged communities throughout our archipelago.

I am aware that all these successes depended on collaboration. We share the deep responsibility for preserving and protecting our precious islands with islanders, businesses and all levels of government. There's great power in the relationship-building needed to work cooperatively and, as global problems increase in complexity, I'm glad for the example set by islanders and the Islands Trust Council.

Other coastal governments appreciate the Islands Trust's focus on constructive solutions and it is good to be working together more and more with First Nations, local and regional government partners towards resolving longstanding issues such as ferry services, derelict vessels and oil spill prevention and preparedness. I'm grateful too for the broad participation of local governments from both sides of the border at Trust Council's December economic sustainability workshop.

Our effectiveness at finding durable solutions to complex problems relies on strengthening relationships and finding unity with all coastal communities – including across the border in Washington State. That may be the only way senior governments will heed our pleas for more sustainable environmental and social policies.

As we near the end of our 2011-2014 term of office and reflect on our efforts, I am proud that Trust Council adopted below-inflation budget increases throughout this term, including a zero increase budget for 2014-2015, all while remaining carbon neutral and completing a great deal of Council's Strategic Plan.

I am grateful for the always reliable and good-natured collaboration of Trust Council's Vice-Chairs David Graham, Ken Hancock and Peter Luckham. Together we maintain a strong focus on fulfilling Council's goals, while staying alert to new threats and opportunities to the Islands Trust Area communities and ecology.

Most importantly, achieving our mandate depends on collaboration with islanders who offer passion and expertise to tackling local problems as well as supporting Trust Council's advocacy programs. Our Community Stewardship Awards program is dedicated to celebrating those everyday heroes who are committed to supporting the mandate in their work.

Community Stewardship Awards 2013

Each year, the Islands Trust recognizes individuals and groups who support the Islands Trust mandate with significant contributions towards preserving the community, culture or the natural environment of an island. In 2013 we received nominations for eight individuals and six groups.

A special enduring achievement award went posthumously to Ana Miriam Leigh for her 20 years of supporting women experiencing violence on Denman Island.

The individual awards went to Richard Blagborne, Saturna Island, for his role in saving and restoring the Fog Alarm building at East Point Park; Chris and Judith Plant, Gabriola Island, for promoting and demonstrating sustainability through book publishing; and Jan Slakov, Salt Spring Island, for her environmental and social justice leadership.

The group awards went to the Salt Spring Island Water Council for ten years of work on island water issues; the Lasqueti Island Forage Fish Team for monitoring beaches for forage fish habitat; and the Mayne Island Conservancy Society for their shoreline care program.

The many people who dedicate their energy, time and imagination to strengthening their island communities and safeguarding our natural environment are an inspiration to all of us.

(Add signature)
Sheila Malcolmson, Chair, Islands Trust Council

Message from the Islands Trust Fund Board Chair

Since 1990, islanders have entrusted the Islands Trust Fund with the responsibility to protect habitat on many well-loved island places. As a land trust, the Islands Trust Fund promises the land and covenants we receive are protected forever. We treat each donation we receive as an investment in our islands' future.

I continue to be proud highlighting the Islands Trust Fund as a stable organization to receive these investments. Throughout our formative years, we grew at a sustainable and affordable rate. We protect more than 1,100 hectares of ecologically sensitive land without using mortgages or loans. We take a conservative approach to land acquisition, understanding the importance of planning for the continued costs of land protection. Thanks to the ongoing financial support of the Islands Trust and island taxpayers, we are among the leaders in long-term management of protected areas.

As we've matured as an organization, we have come to appreciate the role partnerships and teamwork play in our stability. We continue to register conservation covenants with partner land trusts on our nature reserves – five this year – adding a legal layer of protection to these special places. Island-based conservancies graciously help us with much of our property management, such as invasive species removal, species monitoring and restoration. Our partners play a large role in making sure the habitats we protect remain healthy and safe.

We also continue to support the projects of our land trust partners on the islands. Thanks to the generosity of our donors, the Islands Trust Fund distributed its highest number of Opportunity Fund grants to date, contributing more than $17,000 to land acquisition projects throughout the islands.

In carrying out the preserve and protect mandate of the Islands Trust, the Islands Trust Fund must maintain a long-term vision that ensures our protected areas are cared for far into the future. We have proactive management plans for all of our nature reserves, helping us determine the highest priority management tasks for each year. We have increased our emphasis on legacy gifts, providing information to donors who wish to make protection of island ecosystems a part of their estate planning. We are here for the long haul, so that species and ecosystems have a chance to be as well.

(Add signature – in Annual Report file)
Tony Law
Chair, Trust Fund Board

Message from the Chief Administrative Officer

As the Islands Trust approaches its 40th anniversary, and as I mark my 23rd year working here, it is interesting to reflect on what has changed over those years – and what has not. Certainly, the Islands Trust's mandate is unchanged, as well as our staff's passion for upholding it, but some of the ways we work have changed and continue to change dramatically. Some of these changes are due to technological innovations, while others are created by legislative changes responding to increased public expectations for accountability and transparency. While this is a welcome and natural evolution in democracy, meeting those expectations requires greater investment in staff and technology.

When I first began work at the Islands Trust, we used typewriters, drew our maps on mylar with ink and contacted people in person or by phone and 'snail' mail. There were no digital maps, no internet, no website, no emails and no requirements for open meetings. Local trust committees met rarely, some making most decisions by 'resolution without meeting' after internal discussions. While we began to go 'digital' in the late 1990's with early emails and a fledgling website, only 10 years ago our website was still just a few dozen pages of policies and meeting minutes. Only one staff person knew how to maintain it, something they did when they could, in addition to many other duties.

With its most recent re-launch, our website gets 90,000 visits per year and offers digital maps, 400 pages of content, thousands of fully-searchable meeting records, bylaws and reports, plus numerous links to external information. We now have more than a dozen staff making daily updates and e-mailing current information to subscribers to notify them of public meetings, information sources and decisions. Our mapping systems are light years away from paper and pen – an incredible information resource for anyone interested in the Islands Trust Area. Today, Islands Trust bodies comply with 'open meeting' legislation, holding over 200 public meetings a year in public, with notices, specific procedures and minutes. Ten years ago it was rare to get an information request – now they come in by the hundreds every day. Now even the smallest local governments need staff who specialize in information technology, geographical information systems, records management and modern legislation that guides 'freedom of information', privacy, meeting procedures and policies.

In addition to those staff who have more public work, we have many staff maintaining the essential and sometimes invisible systems of modern governance that support them.

Behind the Scenes

Legislative Services

Legislative Services Manager, Carmen Thiel, is responsible for planning and coordinating the legislated obligations of the fifteen corporate bodies of the Islands Trust. In addition to advising local trust committees and Trust Council on their legislated roles, and responding to public inquiries, Carmen coordinates elections and by-elections and manages the orientation of elected officials and the training of staff regarding legislative and administrative matters.

Carmen acts as the Islands Trust's corporate 'Secretary', our Records Manager, and our 'Head' for the purposes of the *Freedom of Information and Protection of Privacy Act*, providing a unifying presence among our three offices while advising and supporting staff as they respond to statutory, procedural, records management or privacy issues. This year she drafted new minute-taking guidelines and provided training to the many island-based minute takers who serve local trust committees. She drafted a comprehensive new Local Trust Committee Correspondence Handling Policy, approved by Council in December 2013. In addition, she drafted a new Salt Spring Island Local Trust Committee meeting procedures bylaw to provide for electronic (audio or audio visual) participation where short notice or emergencies make it impractical for one or more Trustees to attend in person. When new policies or procedures like these are adopted, Carmen is responsible for ensuring that they are properly implemented, through training of staff, orienting new staff, and monitoring on-going operations.

2013-2014 Staff – Comings and Goings

This fiscal year we said goodbye to several valued employees listed below and celebrated the following promotions and new hires:

- **Wendy Hawthorn** was hired on May 21, 2013 in the new position of Computer Applications Support Technician.
- **Rob Milne** joined the Northern Office on May 21, 2013 to fill the vacant Island Planner position.
- **Penny Hawley** joined the Northern Office on May 27, 2013 as an auxiliary Office Administrative Assistant, filling the vacancy created by **Theresa Warren**'s maternity leave.
- **Jason Youmans** was welcomed as a Planner 1 co-op student in the Northern Office in August 2013 and won the competition for permanent Planner 1 in the Salt Spring Office in December, 2013.
- After almost 25 years with Islands Trust, **Kathy Jones** retired on August 30, 2013. Her position as Legislative Clerk was filled by **Sharon Lloyd-deRosario**.
- To fill the vacant Planning Team Assistant position left by **Sharon Lloyd-deRosario**, **Lori Foster** joined the Southern Team in August 2013.
- **Rob Gratton** was also hired in August 2013 as the auxiliary Bylaw Enforcement Administrative Assistant, while **Stephanie Somers** is on maternity leave.
- **Anna Olson** joined Islands Trust as an auxiliary Finance Clerk in August 2013, to replace **Nicole Ranger**, while she was on a six-month temporary assignment with the Ministry of Children and Family Development. Anna became permanent in the position in February 2014 when she replaced **Nicole Ranger**, who took on the Islands Trust's role of Administrative Services Coordinator following **Terry Hays**' move to a new position with the Public Service Agency.
- After four years with Islands Trust, **Jeff Ralph**, Property Management Specialist, left in August 2013 for a new position with the Ministry of Aboriginal Relations and Reconciliation.
- **Caitlin Brownrigg** left her position as Planner 1 in the Salt Spring Office in October 2013 to join the Ministry of Environment.
- **Sonya Sundberg,** Grants Program Manager, left Islands Trust in November 2013 to join the Ministry of Environment. In January 2014, **Mike Richards** of Gabriola Island was hired to fill the vacancy created by Sonya's departure.
- After 22 years with Islands Trust, **Pauline Brazier**, Legislative Clerk, retired on February 28, 2014. **Claire Olivier** was promoted to Legislative Clerk at the Salt Spring Office following her departure.
- On March 28, 2014, **Andrea Pickard,** Island Planner in the Southern Office left Islands Trust after five years for a new role with the District of Saanich.

Staff Recognition Awards

In December 2013, I had the pleasure of presenting the seventh annual staff recognition awards. Our staff recognition awards program was developed by staff to recognize the achievements and contributions of their colleagues.

The **Innovation Award** can go to an individual or a team. It can be for a particularly innovative program, project, system or process that would save money, improve efficiency, save time and is over and above the normal job description. It has only been presented twice before. The winner of the Islands Trust Innovation Award for 2013 was Penny Hawley, Administrative Assistant in our Northern Office, in recognition of the significant cost savings realized by her spearheading a new garbage/recycling program.

The **Champion Award** is intended to go to an individual who champions the Islands Trust Policy Statement or strategic goals and has demonstrated this through a project or actions. This year the award was given to Robert Kojima, Regional Planning Manager of the Southern team, for his exceptional work that has resulted in Development Permit Areas for Sensitive Ecosystems for the North Pender and Galiano Local Trust Areas.

The **Legacy Award** goes to a staff member who has done something that makes a significant difference for all of us who work for the islands. This is only the fourth time someone has been nominated for this award and I was delighted to present the award to Lisa Gordon, Director of Trust Area Services, for overseeing the launch of the new Islands Trust website.

The **Service Excellence Award** goes to an individual who provides excellent customer service (internally or externally), is courteous, cooperative, dependable, assists others and is an excellent team member. The award this year went to Dave Beeston, Information System Coordinator for going above and beyond when providing technical assistance.

The **Exceptional Team Effort Award** goes to a regular or ad hoc team, or to a special team formed for a project. It is awarded for "exceptional effort beyond standard performance; effort that exceeds normal expectations; and for

overcoming major challenges." This award was presented to the Northern Team which has undergone some major changes and transitions during the year and the team continued to run seamlessly.

The **Excellence in Leadership Award** is for an individual who encourages teamwork, empowers the team, mentors staff and communicates well. This year the award was presented to both Leah Hartley, Regional Planning Manager of the Salt Spring office and Courtney Simpson, Regional Planning Manager of our Northern Office for being valued leaders in our organization.

The **Unsung Hero Award** is intended to go to an individual who is dependable, assists others, is courteous, cooperative and is willing to take on tasks that no one else wants to do. The award went to the Northern Office's Jason Youmans, Planner 1, for his conscientious and unassuming good nature which makes him a joy to work with.

(Add signature)
Linda Adams, Chief Administrative Officer

The Islands Trust Area

The Islands Trust Area covers the islands and waters between the British Columbia mainland and southern Vancouver Island, including Howe Sound and as far north as Comox, with the exception of Texada Island. It is approximately 5,200 square kilometres (2,000 square miles) in size and has a resident population of more than 25,000 and an additional 10,000 non-resident property-owners.

Located in the Strait of Georgia and Howe Sound, the Islands Trust Area is a unique and special place — a scenic archipelago of 13 large islands and more than 450 smaller islands and islets. The area provides habitat for an exceptional variety of species: more than 200 types of migratory and resident birds and numerous species of fish and other marine and intertidal life, terrestrial wildlife and vegetation. Outstanding scenery and recreational resources include panoramic viewpoints, sheltered bays, protected marine waterways and anchorages, all of which contribute to the beauty, appeal and tranquility of this area.

The unique natural environment of the islands in the Strait of Georgia and Howe Sound has given the area national recognition. Realizing this, the government of British Columbia enacted special protective legislation in 1974 entitled the *Islands Trust Act*. The *Act* states that the object of the Islands Trust is to "preserve and protect the Trust Area and its unique amenities and environment for the benefit of the residents of the Trust Area and of British Columbia generally, in cooperation with the municipalities, regional districts, improvement districts, other persons and organizations, and the Government of British Columbia."

Insert Latest Map from: Common/Clipart/Islands Trust/Maps/May 2013 Maps

Organization & Responsibilities

The Islands Trust is a unique federation of twelve special-purpose local government bodies and Bowen Island Municipality, all of which plan land use and regulate development in the Islands Trust Area. The Islands Trust consists of a number of distinct corporate entities: the Islands Trust Council, Executive Committee, twelve local trust committees and Trust Fund Board.

Like other communities in British Columbia, island communities elect their local representatives every three years. Two local trustees are elected for each group of islands designated as a local trust area or island municipality. For the twelve local trust areas, the two local trustees, together with an appointed chair from the Executive Committee, are responsible for the land use decisions within their local area. For Bowen Island Municipality, the two local trustees are part of a seven-member council that is responsible for all functions of a local government, including land use decisions. Unlike the Bowen Island Municipal Council, each local trust committee also has jurisdictional authority for the smaller islands and water that surround the major island in that local trust area.

(Insert Legislative Structure chart)

2013-2014 Accomplishments

Executive Summary of Strategic Plan and Policy Statement Accomplishments

Trust Council uses the three main categories in the Islands Trust Policy Statement to organize its strategic plan, which in turn organizes priorities and goals for each term. Trust Council adopted its 2011-2014 Strategic Plan in September 2012 and updates it at every quarterly meeting to align Trust Council's strategic priorities with its staff resources and budget.

Selected accomplishments from this year are highlighted below under the section headings of the Policy Statement. You can read the detailed Strategic Plan and status of all activities in Appendix A.

Goal A Ecosystem Preservation and Protection

The Islands Trust will work to protect the natural environment of islands by:

Encouraging and enabling islanders in voluntary stewardship actions that protect special areas, including the shoreline

- Completed Eelgrass mapping for Gambier, Thetis, Thetis associated islands, Lasqueti, North Pender, South Pender, Mayne, Ballenas-Winchelsea, Bowen, Denman, Gabriola, Galiano, Gambier Associated Islands (excluding Thormanbies), and Hornby. Completed forage fish habitat mapping for North and South Pender.
- Awarded Opportunity Fund grants to Pender Island Conservancy ($5,000), Salt Spring Island Conservancy ($5,000) and Mayne Island Conservancy ($3450).
- Held Islands Trust Council workshop and shared information with the public regarding invasive species.
- Launched Natural Area Protection Tax Exemption Program (NAPTEP) on Bowyer and Passage Islands, within the Gambier Local Trust Area. The program rewards private property owners with a 65% property tax reduction on land they protect with a permanent covenant. Bowen Island Municipality declined NAPTEP for current term.

Working to protect fish habitat under BC's *Riparian Areas Regulation* (RAR)

- Adopted new bylaws to implement RAR on Saturna.
- Identified riparian watersheds on Hornby Island and improved mapping of additional riparian areas on Denman and Hornby Island.

Protecting special ecosystems, managing shoreline areas and reducing greenhouse gas emissions when land use decisions are made

- Protected 57 new hectares of land with high biodiversity, through acquisition, donation, or conservation.
- Participated in Coastal Douglas-fir and Associated Ecosystem Conservation Partnership.
- Approved policy regarding carbon-neutral operations and purchased carbon credits to balance greenhouse gas emissions that cannot be eliminated.
- Piloted a Green Shores for Homes credit rating incentive system on Thetis Island.

Advocating for new approaches to oil spill preparedness, derelict vessels, industrial developments, aquaculture, marine sewage and national marine conservation.

- Hosted local government workshops (Regional District Nanaimo Board and San Juan County marine managers) to raise awareness of gaps in oil spill prevention and response capacity.
- Continued to advocate for senior government solutions to derelict vessels by participating in a derelict vessel working group, writing to Ministers and sponsoring a resolution with Bowen Island Municipality at UBCM in September, 2013.

Goal B Stewardship of Island Resources

The Islands Trust will focus on good management of island water resources by:

Encouraging voluntary stewardship, advocating for legislative reform and exploring creative solutions for watershed management

- Provided input to BC's *Water Sustainability Act*.
- Compiled and web-posted educational materials about water resources for islanders.
- Adopted bylaw to delegate some Trust Council coordination and advocacy powers to Salt Spring Island Local Trust Committee, leading to the creation of the Salt Spring Watershed Protection Authority.

Using land use planning tools and decisions to protect the quality and quantity of water resources.

- Developed toolkit including model Development Permit Areas for use by local trust committees/Bowen Island Municipality that illustrates options for using planning tools to protect water quality and quantity.

Goal C Sustain Island Character and Healthy Communities

The Islands Trust will work to enhance the economic sustainability and security of island

communities by:

Creating linkages between islanders and regional districts to share effective economic development.

- Hosted a half-day session on Islands Trust Area economic sustainability at December 2013 Trust Council meeting in Victoria, which included many Islands Trust Area electoral area representatives.

Continuing to advocate for sustainable, affordable and appropriate ferry services.

- Continued research and advocacy program regarding ferry fares and service, including letters to the Minister of Transportation and submissions in response to calls for public input.
- Chair attended meetings with Premier, Transportation Ministers, opposition critics and ferry commissioner.

Using land use planning tools and decisions to positively affect housing, food security, farmland protection and socio-economic diversity.

- Salt Spring Island Local Trust Committee adopted bylaw changes allowing secondary suites and explored with the community possible changes to bylaws to allow temporary portable homes and to allow for emerging industrial and commercial needs.
- Gabriola Island Local Trust Committee is considering amendments to the Land Use Bylaw and Official Community Plan to better protect farmland and improve food security.

Islands Trust Council Highlights

Role

The twenty-six member Islands Trust Council establishes general policies for carrying out the object of the Islands Trust. Trust Council also adopts an operational budget for the Islands Trust and manages the financial undertakings of all parts of the Islands Trust except for the Trust Fund, which manages its own operations. Trust Council appoints staff and auditors and adopts an annual budget. Tax levies on properties within the Trust Area are the primary funding source for the operations of the Islands Trust; additional revenue comes from a provincial grant and development application fees.

The *Islands Trust Act* requires Trust Council to implement the Trust Policy Statement that is applicable to the whole Trust Area. The Minister of Community, Sport and Cultural Development must approve the Policy Statement before it is adopted. The Policy Statement provides broad policy guidelines for Trust Council, the Trust Fund Board and the local trust committees and island municipality regarding the protection of ecosystems, the stewardship of resources and the promotion of sustainable communities. The positions and philosophy of Trust Council contained in the Policy Statement also constitute a policy framework for reference by the public and other agencies such as the regional districts of the Islands Trust Area, the province and its agencies.

Trust Council has three standing committees of trustees — the Local Planning Committee, Trust Programs Committee and Financial Planning Committee — which provide policy advice to Trust Council on issues referred by the Council and on committee initiatives.

Members

The following trustees are members of the Islands Trust Council:

Bowen
Wolfgang Duntz, Andrew Stone
Denman
Laura Busheikin, David Graham
Gabriola
Sheila Malcolmson, Gisele Rudischer
Galiano
Louise Decario, Sandy Pottle
Mayne
Brian Crumblehulme, Jeanine Dodds
North Pender
Ken Hancock, Gary Steeves
Salt Spring
George Grams, Peter Grove
Saturna
Paul Brent, Pam Janszen

Gambier
Jan Hagedorn, Kate-Louise Stamford
Hornby
Alex Allen, Tony Law
Lasqueti
Peter Johnston, Susan Ann Morrison
South Pender
Mike Jones, Liz Montague
Thetis
Sue French, Peter Luckham

2013-2014 Advocacy

The Islands Trust Council's advocacy program is guided by the Islands Trust Policy Statement. The Policy Statement states that *to achieve its object, the Islands Trust must be an educator, coordinator, and initiator, guiding individuals, organizations and other agencies in support of the object. While the Islands Trust can provide the necessary leadership, responsibility for stewardship of the Trust Area rests with many. Individuals, other government agencies, organizations, and the Province itself all have important roles to play. Cooperative actions are required of other agencies, organizations and individuals to ensure that activities are carried out in a manner that is sensitive to the needs of Trust Area ecosystems and island communities.*

In response to concerns raised by communities through their elected trustees and supported by objectives in its 2011-2014 Strategic Plan, Trust Council continued to place a high priority on its advocacy program, most of which is overseen and implemented by the Islands Trust Council's Executive Committee. This work is guided by Trust Council's Advocacy Policy (Policy 6.10.iii).

In 2013-2014, Trust Council advanced its advocacy priorities by writing letters, making submissions to consultation processes, giving presentations, passing resolutions, and working with partners under the following topics:

Ecosystem Preservation and Protection

Oil spill preparedness and response: *(consistent with Policy Statement policies 3.1.9, 5.3.8, and Strategic Plan strategy 2.3)*

In June 2013, the Islands Trust Council Chair wrote to Transport Canada's Tanker Safety Expert Panel to express the Islands Trust Council's concerns about the following issues:

- No accommodation within the regulatory regime for special measures in sensitive regions;
- Lack of regulations addressing oil spill prevention;
- Inadequate standards for response organizations;
- Barriers to effective trans-boundary oil spill response;
- Inadequate financial guarantees in the event of a spill;
- Insufficient knowledge about unconventional oils; and
- Lack of transparency and citizen engagement on major vessel casualty and oil spill issues.

The Islands Trust Council Chair also sent a joint letter with the San Juan County Chair to the Tanker Safety Expert Panel to express extreme concern about the oil and coal spill risks posed by marine shipping in the area and the poor state of Canadian readiness to respond to a major spill in the Salish Sea and to request that the Panel develop recommendations that create the best protection possible for our ecologically, economically and culturally rich region.

The Islands Trust Council Chair made three public presentations about oil spill risks and response concerns: on Lasqueti Island in September 2013, Gabriola Island in October 2013, and Mayne Island in January 2014.

In December 2013, the Islands Trust Council Chair wrote to the Canadian Environmental Assessment Agency requesting that Port Metro Vancouver be required to study how the increased marine traffic that would result from the Roberts Bank Terminal 2 project would impact the ecosystems, species, and communities of the Salish Sea, and requested an oil spill risk assessment.

In February 2014, the Islands Trust Council applied and was invited to participate as a commenter in the National Energy Board's hearing into the Trans Mountain Pipeline Expansion Project. This request was consistent with the Islands Trust Council's June 2012 decision to oppose in principle oil pipeline projects that lead to the expansion of oil export by barge and

tanker from Canada's west coast due to concern about the risk of oil spills that could irrevocably damage coastal environments, economies, and communities.

In February 2014, Islands Trust Council Chair Sheila Malcolmson and Vice-Chair Peter Luckham met a representative of the Pacific Pilotage Authority regarding their risk assessment of the use of tethered escort tugs for tankers under 40,000 tons navigating Haro Strait and Boundary Pass.

In March 2014, the Islands Trust Council Chair wrote again to the Tanker Safety Expert Panel to provide input to their review of requirements for a potential Ship-source Hazardous and Noxious Substances (HNS) Incident Preparedness and Response Regime in Canada. In this submission, the Chair requested that the Panel develop recommendations that address the need for:

- Accommodation within the regulatory regime for special measures in sensitive regions;
- Regulations aimed at preventing spills from vessels in distress;
- Effective trans-boundary oil spill response;
- Transparency and citizen engagement on major vessel casualty and spill issues;
- Regulations aimed at preventing spills from vessels in distress;
- Industry-funding; and
- Seamless integration between a new Hazardous and Noxious Substances (HNS) Incident Preparedness and Response Regime and the existing oil spill regime.

Derelict and Abandoned Vessels, Barges and Docks *(consistent with Policy Statement policy 3.1.9 and Strategic Plan strategy 2.3)*

Islands Trust staff continued to participate in the Joint Working Group for the Removal of Derelict Vessels in British Columbia.

At the Union of BC Municipalities convention in September 2013, the Islands Trust and Bowen Island Municipality organized a well-attended session called 'Closer to Derelict Vessel Solutions?' The Islands Trust Executive Committee also led a delegation of seventeen local governments meeting with the Honourable Steve Thomson, Minister of Forests, Lands and Natural Resource Operations, to seek an update on the Province of British Columbia's commitment to increase efforts to work with the federal government to create a permanent solution to the issue of derelict and abandoned vessels that includes sustainable funding sources. The Islands Trust and Bowen Island Municipality co-sponsored Resolution B30 which was supported by the convention:

> *WHEREAS the UBCM previously endorsed resolutions in 2005, 2010, and 2012 proposing constructive solutions and encouraging the federal and provincial governments to take action on the issue of derelict and abandoned vessels; and*
> *WHEREAS the issue continues to be of significant concern to coastal communities for economic, aesthetic, environmental and safety reasons:*
> *THEREFORE BE IT RESOLVED that the UBCM again petition the provincial and federal governments to increase their efforts to work together to create a permanent solution to the issue of abandoned and derelict vessels that includes sustainable funding sources.*

After the convention, in October 2013, the Islands Trust Council Chair wrote to both Minister Thomson and local government partners to follow-up on the points raised during the September meeting.

In November 2013, the Islands Trust Council Chair wrote to Union of British Columbia Municipalities staff with comments on the Province of British Columbia's draft document *A Practical Manual for Addressing Problem Vessels and Floating Structures*.

Through January and February 2014, trustees and staff encouraged local governments and community members to provide information to Transport Canada in support of the federal government's interest in developing an inventory of vessels and floating structures of concern in British Columbia.

Coal Export Project *(consistent with Policy Statement policies 3.1.8 and 5.3.8, and Strategic Plan strategy 2.3)*

In June 2013, the Islands Trust Council Chair wrote to the Port Metro Vancouver Board of Directors to express Trust Council's opposition to the proposal to export coal through Fraser Surrey Docks, and transport it by barge to Texada Island for storage and then re-loading for shipment to Asia. The letter expressed concern about potential impacts from coal dust from the proposed barges, the lack of information about the project's potential impacts on the Islands Trust Area and the project's contribution to climate change.

Sustainable Communities

BC Ferries Fares and Service *(consistent with Policy Statement policy 5.3.1 and Strategic Plan strategy 4.2)*

At the Union of British Columbia Municipalities Convention in September 2013, the Islands Trust Council Chair met with the Honourable Todd Stone, Minister of Transportation and Infrastructure, and the Honourable Christy Clark, Premier of British Columbia in conjunction with the Coastal Regional District Chairs ferries group to discuss cuts to BC Ferries service.

On December 3, 2013, the Islands Trust Council hosted a workshop on island economic sustainability models. At that workshop coastal community leaders came to a clear consensus that ferry service cuts and rising ferry fares present the greatest threat to island economies.

In December 2013, the Islands Trust Council Chair wrote to the Honourable Todd Stone, Minister of Transportation and Infrastructure, regarding BC Coastal Ferries service reductions and relaying Trust Council's deep concern about the process by which ferry service reductions were being implemented, including:

- Service cuts being imposed on top of fare increases above the rate of inflation that are expected to generate an additional $190 million this performance term;
- Elimination of sailings that are crucial to ferry users' employment, education and other core activities;
- Absence of any analysis of socio-economic impacts of service reductions;
- Lack of effective consultation with affected communities and of any consultation with local governments;
- Inadequate provision of sufficient information, time and resources to identify alternative options;
- Abandonment of the previous contractual requirement for BC Ferries to provide appropriate advance notice of schedules; and
- Lack of due regard for principles articulated in the Coastal Ferry Service contract, which states that "the coastal ferry service is integral to economic growth and development" and in the *Coastal Ferry Act* which provides for considering the interests of ferry users.

In January 2014, the Islands Trust Council Chair wrote to the Select Standing Committee on Finance and Government Services to suggest that funding for BC Ferries be a priority in Budget 2014. Also in January, the Islands Trust Council Chair wrote a letter to the BC Ferry Coalition in support of its Fiscal Fairness campaign.

In March 2014, the Islands Trust Council Chair wrote to the BC Ferry Commissioner to request a performance review of BC Ferries' management systems and structures. The Commissioner agreed to include the topic in the BC Ferry Commission's 2014 work program.

At the end of March 2014, the Islands Trust Council Chair wrote to the to the Honourable Christy Clark, Premier of British Columbia outlining the Islands Trust Council's concern about the government's BC Ferries service cuts, fare hikes and infrastructure funding.

Stewardship of Resources

Water Sustainability Act (consistent with Policy Statement policies 3.1.5, 3.1.9, 3.3.1, 3.3.2, 4.4.1, 4.4.2, 4.4.3, and 4.4.4, and Strategic Plan strategy 3.2)

In November 2013, the Islands Trust Council provided a submission to the Province of British Columbia's *Water Sustainability Act* legislative proposal, highlighting the unique circumstances of the Islands Trust Area requiring consideration during drafting of the legislation and regulations. The submission also emphasized the need for significant ongoing provincial investment in implementing the legislation, so that local governments are not burdened with the costs of enacting and enforcing the new governance framework. Specific requests included:

- That future consultation review periods be at least 60 days;
- That the Province provide funding and prioritize studies of Gulf Island aquifers to inform future regulatory decisions;
- That the Province assign priority to the Islands Trust Area, or at least the islands of greatest concern, for area-based regulations and Water Sustainability Plans;
- That regulatory mechanisms be supported with adequate provincial funding and staff resources;
- That the Province invest in education programs prior to beginning consultations that may result in domestic licencing requirements;
- That the *Water Sustainability Act* make provisions to consult domestic users when licencing commercial use of well-water; and
- That the Province prescribe standardized methods to establish that sufficient water is available to support a new structure or use, and monitor the cumulative impacts of individual wells drilled.

Agricultural Land Reserve *(consistent with Policy Statement policy 4.4.1)*

In December 2013, the Islands Trust Council Chair wrote to the Minister of Agriculture to convey the Islands Trust Councils' concern about possible weakening of the British Columbia Agricultural Land Reserve.

Howe Sound Management Planning *(consistent with Policy Statement policy 3.1.9, 3.1.1, 3.1.2, 3.1.6, 3.1.10 and Strategic Plan strategy 2.3)*

In September 2013, the Islands Trust Council Chair attended a meeting organized by the Sunshine Coast Regional District with the Honourable Steve Thomson, Minister of Forests, Lands and Natural Resource Operations, to advocate for a Howe Sound Management planning process. Trustees Jan Hagedorn and Andrew Stone spoke of the 'massive natural asset' of Howe Sound and emerging natural resource conflicts. In September 2013, the Islands Trust Council Chair also attended a meeting of the Howe Sound Community Forum as an observer.

Other Islands Trust Council Highlights

Working in Cooperation:

San Juan County

At their June 2013, meeting on Mayne Island, members of Islands Trust Council and the San Juan County Council exchanged information and discussed areas of mutual interest, including economic development, affordable housing and marine safety.

Joint Session with Bowen Municipal Council

In January 2014, the Islands Trust Executive Committee had a joint meeting with Bowen Island Municipal Council and discussed the proposed 2014-2015 budget and a number of advocacy topics of mutual interest as well as reviewing Eelgrass mapping for Bowen Island shorelines.

Economic Sustainability Session

In December 2013, the Islands Trust Council provided a unique opportunity for Regional District electoral area directors who have responsibility for economic development in the Islands Trust Area, to share effective appropriate and sustainable economic development models. The workshop provided a unique opportunity for 50 island representatives to discuss their roles in island economic sustainability and to share experiences and initiatives. In the Islands Trust Area, zoning for home business and commercial or light industry is decided locally by trustees. Regional Districts have the authority for economic development services.

Those attending included Members of the Legislative Assembly of British Columbia, electoral area directors and staff from regional districts, chairs of regional district economic development commissions, presidents of chambers of commerce, a representative of the BC Economic Development Association, members of the Vancouver Island Economic Alliance board as well as staff from San Juan County in Washington State.

At the workshop coastal community leaders came to a clear consensus that BC ferry service cuts and rising ferry fares present the greatest threat to island economies.

Those attending the workshop reviewed indicator data pertinent to economic sustainability. It is available for download from the Islands Trust website.

Trust Council Presentations

Trust Council heard a number of presentations during Trust Council quarterly meetings:

- The Community Carbon Marketplace initiative provided Trust Council with information about the options available for the purchase of carbon credits through the Community Carbon Marketplace and the options for supporting local island projects.
- Presentation from Kinder Morgan Canada on its plans to increase tanker traffic and the associated risks to the Islands Trust Area, including information on risk assessment for the Strait of Georgia and Boundary Pass; environmental and socio-economic assessments; and, the behavior of diluted bitumen in the event of a spill.
- Paragon Strategic Services facilitated a workshop and small group discussion session, suggesting new tools and skills to assist trustees in making difficult decisions in their various roles within the Islands Trust.
- Senior staff provided trustees with a high level explanation about what the *Freedom of Information and Protection of Privacy Act* is and what it does and provided examples of situations that trustees may encounter while serving as elected officials.
- Senior staff provided a review to trustees about the principles of fair decision-making and how to apply those principles when considering land use applications.
- Trust Council Chair Sheila Malcolmson presented a slide show on oil spill preparedness and oil tanker traffic expansion concerns which she has presented to other local governments on behalf of the Island Trust Council.
- The Coastal Invasive Species Committee provided trustees with information about invasive species issues in the islands, focusing on high-priority invasive plants and strategies for management.
- Gerald Hodge, famed author on community planning and resident of Hornby Island gave a presentation on "Is your Community Senior Smart?" and what communities can do to prepare for the surge of aging baby boomers.
- Senior staff with the Ministry of Aboriginal Relations and Reconciliation provided trustees with an understanding of the BC Treaty process and an update to negotiations relevant to the Island Trust Area.

Delegations Addressing Council in 2013-2014

At each quarterly meeting of the Islands Trust Council members of the public are invited to participate in a town hall session, a regular forum to promote dialogue between islanders and trustees.

At the June 2013, Islands Trust Council meeting on the Mayne Island, Council heard from several delegations:

- The manager of the Experience the Gulf Islands project, an initiative of the Southern Gulf Islands Economic Development Commission provided a presentation to Council members about the proposed pedestrian and cycling trail system interconnecting the Southern Gulf Islands, Vancouver Island and the Lower Mainland, and its potential to increase low-impact tourism and support sustainable economic development.
- The Mayne Island Recycling Society addressed Trust Council about the work of the Recycling Centre and the potential funding challenges that may result from the shift of responsibility for printed paper and packaging to Multi Materials British Columbia.
- Christa Grace-Warrick of Pender Islands about future ideas for the Islands Trust Area archipelago.
- Jennifer McClean of Salt Spring Island about water flow, sidewalks and transportation infrastructure in the Gulf Islands.

At the September 2013, Trust Council meeting on Lasqueti Island, Council heard presentations from two community groups:

- The Last Resort Society; and,
- Lasqueti Forage Fish Team.

Trust Council also presented an Islands Trust Community Stewardship Award to the Lasqueti Forage Fish Team and heard from the following delegation:

- The Lasqueti Island Nature Conservancy about the current activities of the conservancy.

In December 2013, Trust Council met in Victoria and heard from the following delegations:

- The Association for Denman Island Marine Stewards and the Denman Island Forage Fish Group expressed their groups' concerns about the impacts of industrial shellfish aquaculture, particularly the expansion of

geoduck aquaculture within the Strait of Georgia.

- Maxine Leichter of Salt Spring Island expressed her concerns about bylaw enforcement in the Islands Trust Area suggested the Islands Trust undertake a study of bylaw enforcement.
- Jan Slakov of Salt Spring Island spoke to trustees about the issue of bylaw enforcement in the Islands Trust Area and suggested Trust Council establish a committee to research options on improving bylaw enforcement in the Islands Trust Area.
- The Gulf Islands Alliance asked Trust Council to consider using the Public Trust Doctrine to fight climate change in the Islands Trust Area.
- Help the Kelp provided a presentation to trustees about the threats to marine ecosystems and Bull Kelp forests in the Islands Trust Area.
- Save the Salish Sea shared its concerns about the risks of increased tanker traffic in the Salish Sea.

In March 2014, Trust Council met on Hornby Island and heard these delegations:

- The Denman Island Forage Fish Group about the impacts of industrial shellfish aquaculture, particularly the expansion of geoduck aquaculture within the Strait of Georgia.
- Cameron Thorn of South Pender Island about advisory bodies and conflict of interest policy recommendations.
- The Association for Denman Island Marine Stewards about concerns with the regulation of aquaculture and the impacts of industrial shellfish aquaculture, as it relates to the expansion of geoduck aquaculture in the Trust Area.
- The Gulf Islands Alliance about encouraging Trust Council to focus on strengthening its relationship with Islands Trust Area First Nations.
- The BC Shore Spawners Alliance to request continued funding of the forage fish habitat mapping project.

Members of the public may address the Islands Trust Council at any of its quarterly scheduled meetings, currently held in March, June, September and December. This can be done formally, by making a delegation or presenting a petition, or informally at the town hall session. All correspondence, formal delegation presentations and petitions are available to the public.

Communications

News Releases

The Islands Trust issued 26 news releases in 2013-2014 on subjects including bylaw enforcement, public input on the annual budget, quarterly Islands Trust Council meetings and agendas, land conservation activities, Community Stewardship Awards, special initiatives, court decisions and BC Ferries. Islands Trust news releases are distributed to local media throughout the Islands Trust Area and outlying media interested in the area, other elected officials, and other interested agencies and governments, as well as subscribers to the Islands Trust electronic distribution service.

Electronic Communications

The Islands Trust website was launched in June 2013 with a range of improvements requested by islanders. It had been more than ten years since the last refresh of the website, so it was time to reinvent the software, design, menu, content and the governance systems. Where there had been only a few staff who could maintain the site – all in the Victoria office – now there are more than a dozen, spread among the three offices. There is also a Web Advisory Group of staff and trustees contributing ideas for continuous improvements. The most significant innovations now on the website are MapIT, a gateway to the most current digital map layers of the Islands Trust Area, a meeting calendar tool and a search engine that looks for the contents of all meeting documents – either for a particular island or for the whole Islands Trust Area. There are also significant changes to the appearance and menu with new features such as Trustee Corner and a "How do I?" menu.

In 2013-2014 the Islands Trust website had 89,507 visits and 353,826 individual page views. Of the visitors to the web site, 38.6% were new and 61.5% were returning visitors. There are 2,790 e-mail subscriptions - about half to updates from Trust Council and the rest from the Trust Fund Board and local trust committees. Anyone may subscribe to e-mail notifications of information including news releases, chair correspondence and meeting schedules. To subscribe to one or more topics click "subscriber options" on the homepage: www.islandstrust.bc.ca.(live link). The Islands Trust also has a

twitter feed under the user name Islands_Trust and a YouTube channel under the user name IslandsTrust.

2. Islands Trust Council Committee Highlights

Executive Committee

Role

The Executive Committee is comprised of the Chair of the Islands Trust Council and three Vice-Chairs, all of whom are elected for a three-year term by Trust Council from among its members. In addition to the responsibilities of individual members who serve as chair of local trust committees, the committee oversees external communications for the Islands Trust, liaises with the provincial government, reviews and implements the Trust Policy Statement and conducts other functions as directed by Trust Council.

The Executive Committee carries out the daily business of the Islands Trust, reviews the bylaws of local trust committees to ensure compliance with the Islands Trust object and the Trust Policy Statement, and acts as a local trust committee for the Ballenas / Winchelsea Island group north of Nanaimo.

Members

Sheila Malcolmson, Chair, Gabriola Island
David Graham, Vice-Chair, Denman Island
Ken Hancock, Vice-Chair, North Pender Island
Peter Luckham, Vice-Chair, Thetis Island

2013 Union of British Columbia Municipalities Annual Convention September 16-20

At the annual Union of BC Municipalities Convention (UBCM) Islands Trust representatives meet and share ideas with Members of the Legislative Assembly and fellow local government representatives. . Chair Sheila Malcolmson and Vice Chairs Ken Hancock and Peter Luckham attended the convention on behalf of the Islands Trust Council, Trustee Jan Hagedorn attended on behalf of the Gambier Island Local Trust Committee and Municipal Trustee Andrew Stone attended on behalf of the Bowen Island Municipal Council. Chief Administrative Officer Linda Adams also attended the conference.

Islands Trust representatives participated in several clinics, workshops and provincial policy sessions, including:

- Closer to Derelict Vessel Solutions? (Hosted by the Islands Trust and Bowen Island Municipality);
- A Snapshot of the Local Government – First Nations Landscape;
- Conflict of Interest Workshop;
- Changes to the *Fisheries Act*;
- Local Government Elections Reform;
- BC's Off Reserve Aboriginal Action Plan; and,
- Electoral Area Directors Forum – with presentations about recruitment and retention of health care professionals, the *Natural Resource Road Act,* and the Ministry of Forest's framework for changing legislation and policies for managing off road vehicles.

Islands Trust representatives and Regional Districts Chairs met with the Honourable Christy Clark, Premier of British Columbia and the Honourable Todd Stone, Minister of Transportation and Infrastructure regarding the impact of increased BC Ferries fares on users and island communities. The following ferry resolution B12 was supported at the convention:

"That UBCM continue to request the Province to:

- *Work co-operatively with coastal communities on implementing a long term strategy for the ferry system that supports the strengthening and sustainability of island economies and the coastal ferry*

service;

- *Implement legislation that recognizes the ferry system as an extension of our highway system and ensures fiscal fairness between the marine and terrestrial components of our highway system; and*
- *Freeze ferry fares and service levels at 2013 levels until such time as the legislation and strategy are implemented."*

Islands Trust representatives and the Regional District of Nanaimo met with the Honourable Pat Pimm, Minister of Agriculture about the lack of referrals and consultation with local governments about beach seaweed harvesting. The related resolution B34 was supported at the convention:

> *"That the provincial government be required to inform local governments and allow them the opportunity to comment and ensure local government zoning is in place prior to issuing licences for activity to take place on lands within or adjacent to any local government."*

The Islands Trust, with 16 local government representatives, led a meeting with the Honourable Steve Thomson, Minister of Forests, Lands and Natural Resource Operations regarding derelict vessels. Resolution B30, sponsored by Bowen Island Municipality and the Islands Trust, was supported by the convention:

> *"That UBCM again request the provincial and federal governments to increase their efforts to work together to create a permanent solution to the issue of abandoned and derelict vessels that includes sustainable funding sources. "*

Islands Trust representatives and the Sunshine Coast Regional District met with the Honourable Steve Thomson, Minister of Forests, Lands and Natural Resources Operations to advocate for a Howe Sound Management Plan. Resolution LR9 was supported at the convention:

> *"That UBCM urge the provincial government to support the development of a Comprehensive Management Plan for Howe Sound that facilitates a coordinated land and marine use planning process between First Nations, senior and local governments, and other local bodies to ensure ongoing recovery and responsible land use planning within Howe Sound."*

Islands Trust trustees and the chief administrative officer hosted a breakfast for Islands Trust Area electoral area directors and Members of the Legislative, including MLAs Gary Holman - Saanich North and the Islands (Salt Spring/Southern Gulf Islands), Nicholas Simons – Powell River Sunshine Coast (Gambier) and Don McRae, Comox Valley (Denman, Hornby); Electoral Area Directors David Howe – Capital Regional District (Southern Gulf Islands), Wayne McIntyre, Capital Regional District (Salt Spring Island), Bruce Joliffe, Comox Valley Regional District (Denman, Hornby), Merrick Anderson, Powell River Regional District (Lasqueti) and Maria Harris, Metro Vancouver Regional District (Bowyer, Passage); and, Councillor Allison Morse, Bowen Island Municipality.

Islands Trust representatives also joined thousands to welcome First Nations canoes bringing residential school survivors to the opening of the Vancouver Truth and Reconciliation Commission and witnessed residential school survivor testimony.

Bylaw Approvals

Before a local trust committee can adopt a bylaw, the Executive Committee must approve all local trust committee bylaws for compliance with the Trust Policy Statement. Before Bowen Island Municipal Council adopts an Official Community Plan Bylaw, the Executive Committee must approve the bylaw and also comments on land use bylaws for the Bowen Island Municipal Council. In 2013-2014, the Executive Committee approved 28 bylaws.

Advisory Committees

Every term, members of three standing committees of the Islands Trust Council (Local Planning, Trust Programs and Financial Planning) are appointed by the Chair to explore selected topics in detail and make recommendations to Council.

Local Planning Committee

Role

The Local Planning Committee's role is to provide policy and planning advice to Trust Council by identifying and reporting to council on emerging issues related to the committee's areas of responsibility (development management, community planning, sustainable community) and to develop guidelines, policies and models for use by staff and local trust committees.

Members

Louise Decario, Galiano Island (Chair)
George Grams, Salt Spring Island (Vice-Chair)
Brian Crumblehulme, Mayne Island
Sue French, Thetis Island
Jan Hagedorn, Gambier Island
Pamela Janszen, Saturna Island
Peter Johnston, Lasqueti Island
Mike Jones, South Pender Island
Gisele Rudischer, Gabriola Island
David Graham, Denman Island, Executive Committee Representative
Sheila Malcolmson, Gabriola Island, Ex Officio Member

During 2013-2014 Trust Council assigned the Local Planning Committee the following projects.

Shoreline Mapping Project and Green Shores for Homes *(Strategic Plan 2.1)*

The Local Planning Committee received a report indicating that the mapping and classification of shorelines was complete and that the mapping was now available to the public on the website. A final report was sent to Trust Council.

A presentation by Brian Emmet, Archipelago Marine, was received addressing the proposed Green Shores credit rating system and pilot project.

Local Planning Committee canvassed all local trust committees and then approved the request from the Thetis Island Local Trust Committee to pilot the next phase of the Green Shores for Homes program with the support of Local Planning Committee staff. Staff have drafted a document titled "A Landowner's Guide to Protecting Shoreline Ecosystems" for use by local trust committees. It will be used initially as part of the Thetis Island Local Trust Area workshops.

Proactive Bylaw Enforcement of Illegal Structures *(Strategic Plan 2.2)*

Local trust committees were canvassed to see if there was interest to do a pilot project on proactively enforcing illegal structures on the foreshore, but Local Planning Committee did not proceed due to funding and competing priorities.

Development Approval Information

Local Planning Committee forwarded a report to Trust Council regarding the implementation of Development Approval Information bylaws and the benefits of local trust committees having these in place. The report also recommended that Council Policy 2.1 vii be amended to attach a new model Development Approval Information bylaw.

Protection of Water Quality and Quantity *(Strategic Plan 3.3)*

The Local Planning Committee approved a document titled "Gulf Islands Groundwater Protection – A Regulatory Toolkit". The toolkit was sent to the Islands Trust Council which forwarded it to the local trust committees. The toolkit contains regulatory options (planning tools) including a model development permit area bylaw and development approval information bylaw.

Renewable Energy Technologies in the Trust Area *(Strategic Plan 1.7.4)*

The Local Planning Committee continued work on developing model wording to encourage green technologies in the Islands Trust Area. The Local Planning Committee will next develop a model policy and regulatory wording to address micro-hydro projects.

Trust Programs Committee

Role

The Trust Programs Committee seeks direction from and provides advice to the Islands Trust Council on reviewing, amending and implementing the topics in the Islands Trust Policy Statement.

Members:

Paul Brent, Saturna Island (Chair)
George Grams, Salt Spring Island (Vice Chair)
Alex Allen, Hornby Island
Laura Busheikin, Denman Island
Tony Law, Hornby Island
Liz Montague, South Pender Island
Kate-Louise Stamford, Gambier Island
Andrew Stone, Bowen Island Municipality
Ken Hancock, North Pender Island, Executive Committee Representative (2011-2013)
David Graham, Denman Island, Executive Committee Representative (2014)
Sheila Malcolmson, Gabriola Island, Ex Officio Member

2013-2014 Highlights

This year, the Trust Programs Committee provided support and recommendations to Trust Council for several of the projects in Trust Council's 2011-2014 Strategic Plan.

In support of Trust Council's focus on advocacy about BC Ferries, the committee reviewed and commented on draft decision and briefing documents for Trust Council about fare increases, service cutbacks and supported related research requests under the *Freedom of Information and Protection of Privacy Act*.

Trust Council's strategic plan also assigned the committee to guide the water education materials project, resulting in a new water resource information page on the Islands Trust website containing links to nine water agencies and more than 80 documents about wise management of water. *(Strategic Plan 3.1.1; 3.1.2)*

Trust Programs Committee supported Trust Council this year by guiding the design of a session on Economic Sustainability, delivered at Trust Council's December 2013 meeting. The session provided a unique opportunity for 50 island representatives to discuss their roles in island economic sustainability and to share experiences and initiatives. Those attending included Members of the Legislative Assembly of British Columbia, electoral area directors and staff from regional districts, chairs of regional district economic development commissions, presidents of chambers of commerce, a representative of the BC Economic Development Association, members of the Vancouver Island Economic Alliance board as well as staff from San Juan County in Washington State. At that workshop coastal community leaders came to a clear consensus that ferry service cuts and rising ferry fares present the greatest threat to island economies. *(Strategic Plan 4.1.1)*

The Trust Programs Committee reviewed a legislative monitoring briefing destined for Trust Council (*Strategic Plan 4.2.1)* and provided advice to Trust Council about a draft bylaw to delegate powers to the Salt Spring Island Local Trust Committee. (*Strategic Plan 3.4.2)*

As part of its ongoing responsibilities, Trust Programs Committee provided recommendations on the Indicator Program and the Community Stewardship Awards Program. The indicator program provides research and statistics on social, economic or environmental trends on the islands and in the region. The Community Stewardship Awards recognize individuals and groups for programs or actions that have made a significant contribution towards the object of the Islands Trust. The 2013 Community Stewardship Award recipients are reported under the Trust Council Chair's introduction on page X.

Financial Planning Committee

Role

The Financial Planning Committee is responsible for facilitating Trust Council's involvement in the annual budget process; facilitating the linkage of the annual strategic planning process with the annual budget process; reporting and making recommendations to Trust Council regarding the organization's financial management practices; reviewing audit reports and recommendations; providing advice to the Trust Fund Board on financial services and support; and monitoring and reviewing the organization's financial management, budget and financial practices.

Members

Gary Steeves, North Pender Island (Chair)
Peter Grove, Salt Spring Island (Vice-Chair)
Paul Brent, Saturna Island
Louise Decario, Galiano Island
Jeanine Dodds, Mayne Island
Susan Ann Morrison, Lasqueti Island
David Graham, Denman Island, Executive Committee Representative
Ken Hancock, North Pender Island, Executive Committee Representative
Peter Luckham, Thetis Island, Executive Committee Representative
Sheila Malcolmson, Gabriola Island, Executive Committee Representative

2013-2014 Highlights

As part of its ongoing responsibilities, the Financial Planning Committee oversaw the completion of the 2012-2013 financial audit for the Islands Trust and Trust Fund, through its audit committee. The audit committee met the external auditors, KPMG, to review their audit findings report, including a special request to review the Municipal Tax Requisition calculation. Planning for the 2013-2014 financial audit was also initiated.

The Financial Planning Committee facilitated Trust Council's involvement in the 2014-2015 budget, recommending that Trust Council adopt a budget with no tax increase to taxpayers, with the exception of residents of the Salt Spring Island Local Trust Area where the Salt Spring Island Local Trust Committee had requested a Special Property Tax Requisition for coordination of the Salt Spring Island Watershed Protection Authority. Quarterly financial updates on actual results, as well as revised forecasts, were provided to the committee throughout the year for information and review.

During the 2013-2014 fiscal year, the Financial Planning Committee proposed several policy changes to Trust Council, primarily based on objectives in Trust Council's Strategic Plan. Amended policies during this period included:

> Revised Purchasing Procedures Policy 6.5.iii – approved by Trust Council March 2014 *(Strategic Plan Objective 6. Improve organizational cost and operational effectiveness)*
>
> Revised Municipal Tax Requisition Policy 7.2.ii – approved by Trust Council December 2013 *(Strategic Plan Objective 6.1 Confirm a fair distribution of Islands Trust Services to Bowen Island Municipality)*
>
> New Carbon Neutral Operations Policy 7.4.v– approved by Trust Council June 2013 *(Strategic Plan Objective 1.6.2 Develop policy regarding carbon-neutral operations and purchase of carbon credits to balance GHG emissions that cannot be eliminated)*

4. Trust Fund Board

Role

The Islands Trust Fund was established in 1990 by the *Islands Trust Act* to preserve natural landscapes and ecosystems in the Islands Trust area. As a regional land trust for the Islands Trust area, the Islands Trust Fund works with Trust area landowners and communities to protect places of natural or cultural significance in perpetuity. The Islands Trust Fund acquires and manages land for conservation, receives donations of land, conservation covenants and cash, and undertakes stewardship education activities. The Trust Fund Board is a qualified donee and provides receipts for income tax purposes for all eligible donations received.

Members

The Trust Fund Board administers the Islands Trust Fund. The Trust Fund Board has six members: two trustees elected by Trust Council, one trustee appointed by the Executive Committee and three members appointed by the Minister of Community, Sport and Cultural Development for terms of one to three years.

Tony Law, Hornby Island (2011–2014, Chair, 2012–2014)
Peter Luckham, Thetis Island (2011–2014)
Susan Morrison, Lasqueti Island (2011–2014)
Dereck Atha, Mayne Island (Appointed Member, 2010–2013, 2013–2016)
Julie Glover, Vancouver and Hornby Island (Appointed Member, 2011–2013, 2013–2015)
Robert Grant, Vancouver and Denman Island (Appointed Member, 2009–2011, 2011–2014)

Protected Area in the Islands Trust Area

As of March 2014, the Trust Fund Board had protected 1,141 hectares of natural and cultural values on 92 properties. By the same date, public and non-profit conservation organizations (including the Islands Trust Fund) had protected more than 18.3% of the Islands Trust area.

Insert Protected Area Chart

Regional Conservation Plan

The Islands Trust Fund's Regional Conservation Plan identifies the region's species and habitats most in need of protection and the actions needed to protect these biodiversity priorities. The 2011-2015 Regional Conservation Plan sets short-term conservation targets for the Islands Trust Fund and its partners that will help achieve the broader vision and long-term goals of the plan. The following is a summary of the Islands Trust Fund's progress in reaching the long-term goals of the plan in 2013-2014:

Goal 1: Protect Core Conservation Areas

The Islands Trust Fund strives to secure core conservation areas (through land donation, direct purchase and covenants) that conserve biodiversity priorities within the Islands Trust area (see http://www.islandstrustfund.bc.ca/protected-places.aspx for more information on our core conservation areas). The Trust Fund Board established criteria used to identify land with the greatest biodiversity values in the Islands Trust Area. The board formulated a list of 3,000 hectares of greatest biodiversity value in the Islands Trust Area and of greatest need of protection (Strategic Plan 1.5.1). Since adopting the 2011-2015 Regional Conservation Plan, conservation agencies have cumulatively protected 1,220 hectares of habitat in the

Islands Trust Area, 833 hectares of which were deemed to be of high conservation value[1]. The Islands Trust Fund contributed 133 hectares of that figure, 117 hectares of which were mapped as having high conservation value (*Strategic Plan 1.5.2*). The following is a summary of those lands secured by the Trust Fund Board in 2013-2014.

Nature Reserves

Nature reserves and sanctuaries are owned by the Islands Trust Fund, and managed for ecological preservation. Since 1990, the Islands Trust Fund has received more than 610 hectares of ecologically sensitive land, and now protects those 25 properties as nature reserves and sanctuaries.

District Lot 58 Nature Reserve (40 hectares)
In 2013, the Trust Fund Board's acquisition of a 40 hectare property on Galiano Island bridged the final gap in the 500 hectare mid-Galiano conservation network. Now, residents and visitors of Galiano Island are able to hike across the width of Galiano, from the shores of Trincomali Channel to the Georgia Strait. The new nature reserve protects a portion of the Great Beaver Swamp, an inland bluff topped with old-growth Douglas-fir and Garry oak, and a lush forest of bigleaf maples below. DL 58's was protected through the collaborative efforts of the Galiano Conservancy Association, the Nature Conservancy of Canada's Natural Areas Conservation Program and the Trust Fund Board.

Burren's Acres Nature Reserve (two hectares)
After decades of industrial use, one Gabriola landowner made it her mission to restore the habitat on this property. Now, camas, blue-eyed Mary, seablush and wild orchid grow each spring in a mossy meadow, replacing a landscape once scarred by diatomaceous earth processing and dumping. In 2013, the landowner donated the restored property to the Islands Trust Fund to make sure her efforts to protect this piece of Gabriola remained after she was gone.

Conservation Covenants

Since 1990, the Islands Trust Fund has helped island landowners protect more than 530 hectares of habitat on privately owned land with conservation covenants. Covenants are the best conservation tool currently available to permanently protect natural features on private property while allowing landowners to retain ownership of the land they love. The Islands Trust Fund also offers Islands Trust Area landowners the Natural Area Protection Tax Exemption Program (NAPTEP), a covenant program that provides landowners with an annual 65% property tax reduction on portions of their land protected by a conservation covenant.

Mt. Tuam Covenant (13.4 hectares)
In 2013, the Salt Spring Island Conservancy and Islands Trust Fund teamed up to protect more than 13 hectares of exquisite herbaceous habitat near the summit of Mt. Tuam. Standing more than 600 meters above the waters of Satellite Channel, Mt. Tuam is a rare haven for more than 24 species at risk, including Yellow Montane Violet and Coastal Scouler's Catchfly. The covenant prevents the private landowner and future owners from developing inside the protected area, keeping intact the vast Garry oak meadow. The covenant was made possible with generous funding from Environment Canada's Habitat Stewardship Program for Species at Risk.

Upper Terrace Covenant (1.3 hectares)
The Upper Terrace Covenant is the seventh property to be protected on Stanley Point, adding to a growing network of permanently protected habitat in this North Pender neighbourhood. Garry oak and associated ecosystems are among the most endangered in Canada, with fewer than 5% remaining in natural condition. The Upper Terrace Covenant protects examples of these ecosystems permanently, ensuring this habitat is never subdivided or developed.

Goal 2: Protect Biodiversity in Working Landscapes

The Islands Trust Fund strives to research ways biodiversity priorities can be maintained on lands outside core conservation areas, including working landscapes. Agriculture, forestry and residential development are important parts of island life. Recognizing that not all natural areas in the islands can be preserved in core conservation areas, the Islands Trust Fund is

[1] 566 hectares of the 1,220 hectares are protected in Old Growth Management Areas (OGMA) on Gambier Island. Forest licensees are required by the Ministry of Forests, Lands and Natural Resources to maintain OGMAs when preparing Forest Stewardship Plans.

encouraging land uses that respect and maintain the health and integrity of island ecosystems (see http://www.islandstrustfund.bc.ca/initiatives/privateconservation/land-stewardship.aspx for more information).

Goal 3: Conserve Marine Ecosystems

The Islands Trust Fund works with partner organizations to conserve marine ecosystems and habitats (see http://islandstrustfund.bc.ca/initiatives/marineconservation.aspx for more information on our marine initiatives and for copies of the mapping described below).

In 2013-2014, the Islands Trust Fund partnered with the B.C. Marine Conservation and Research Society to map forage fish spawning habitat on the shorelines of the following areas:

- Denman Island
- Hornby Island
- Thetis Island

In 2013-2014, the Islands Trust Fund partnered with the Seagrass Conservation Working Group, SeaChange Marine Conservation Society and the Mayne Island Conservancy Society to map nearshore Eelgrass habitat in the following areas:

- Ballenas – Winchelsea Islands
- Bowen, Passage and Bowyer Islands
- Cufra Inlet (Thetis)
- Denman Island
- Hornby Island
- Gabriola Island
- Galiano Island
- Valdes Island

Goal 4: Encourage Local Governments to Prioritize Biodiversity (Strategic Plan 1.1.3)

The Islands Trust Fund strives to work with the Islands Trust Council, local trust committees and island municipalities to implement regional conservation goals and objectives within Official Community Plans and Land Use Bylaws (see http://www.islandstrustfund.bc.ca/i-am-a/local-government.aspx for more information). In 2013-2014, the Islands Trust Fund provided ongoing support for Islands Trust Local Planning Services' use of sensitive ecosystem mapping in Official Community Plans and Land Use Bylaws. The Islands Trust Fund distributed new nearshore habitat mapping to local trust committees to inform land use planning in communities interested in protecting shoreline habitat (*Strategic Plan 1.1.3*). The Islands Trust Fund also initiated regular e-news updates to local trust committee chairs and local trustees to inform them of conservation activity in the islands and to identify opportunities and issues relevant to planning and island governance.

Goal 5: Empower Islanders to Conserve the Islands

Financial Support for Private Land Conservation

Barrie and Nancy Morrison were deeply devoted to conserving the natural world. They were active members of the Pender Islands Conservancy Association and protected habitat on their own land with a conservation covenant. After Nancy's death in 2007, Barrie started a fund in his wife's memory to further private land conservation on the Pender Islands. Barrie's family continued that memory after Barrie's death in 2013 with a $20,000 donation to the Islands Trust Fund, creating the Morrison Waxler Biodiversity Protection Legacy Fund. The fund will help other Pender Island landowners protect habitat on their land with covenants, carrying on Barrie and Nancy's legacy. Starting in 2014, North and South Pender Island landowners may apply to the fund for assistance with the costs associated with placing a covenant on private land.

The Natural Area Protection Tax Exemption Program (NAPTEP) provides landowners who permanently protect natural features of their land through conservation covenants the opportunity to receive a 65% exemption in property taxes on the protected portion of their land. In 2013, the Greater Vancouver Regional District agreed to the implementation of NAPTEP on the islands within their jurisdiction (*Strategic Plan 1.2.2*). This means landowners on Bowyer and Passage Islands now have the opportunity to reduce their property taxes with a conservation covenant (*Strategic Plan 1.2.3*). Metro

Vancouver's decision means all seven regional districts in the Islands Trust area have now consented to the innovative conservation tax-incentive, making NAPTEP available to landowners in every local trust area[2].

Stewardship Education

The Islands Trust Fund encourages islanders to get involved in conservation and steward private land by supporting conservation education and sharing information on best practices (*Strategic Plan 1.1.1*; see http://www.islandstrustfund.bc.ca/initiatives/privateconservation.aspx for more information). In 2013-2014, the Islands Trust Fund promoted private land conservation in newspaper and magazine articles, through its website, the distribution of its newsletter (distribution - 328), e-news updates to online subscribers (593 subscribers) and Twitter (250 followers). The Islands Trust Fund distributed information to islanders by hosting display booths at community events and fairs, as well as speaking about conservation covenants at local conservancy events. New communications materials promoting engagement in land conservation were produced and distributed, including a Planned Giving information package (*Strategic Plan 1.4.2*), and two rack cards – a general promotional rack card and NAPTEP.

Goal 6: Building Strong Conservation Partners

The Islands Trust Fund strives to support and enhance the work of conservation partners working in the Islands Trust Area (*Strategic Plan 1.1.5*; see http://www.islandstrustfund.bc.ca/initiatives/supporting-island-land-trusts.aspx for more information). In 2013-2014, the Islands Trust Fund sponsored island land trusts' attendance at the following regional conservation training seminars and networking events:

- Small Islands International Conference (Gabriola)
- Land Trust Alliance of BC Conservation Covenant workshop
- Cortes Island Land Trust Symposium

Opportunity Fund

The Opportunity Fund raises public support for key opportunities to protect biodiversity in the Islands Trust Area. The fund provides support for 'hard to fundraise' costs associated with land protection or to leverage increased donations for specific land acquisition projects. Grants from the Opportunity Fund support acquisitions led by either the Islands Trust Fund or our partners. The disbursement of funds is guided by the Regional Conservation Plan, and each opportunity is considered by the Trust Fund Board.

In 2013-2014, the Opportunity Fund received $9,076 in donations and $125.75 in calendar sale proceeds (*Strategic Plan 1.4.2*). The Trust Fund Board distributed the following Opportunity Fund grants (*Strategic Plan 1.1.5*):

- $10,000 to the Pender Islands Conservancy Association for the purchase of Brooks Point on South Pender Island
- $5,000 to the Salt Spring Island Conservancy to cover survey, legal and closing costs associated with the purchase of Blackburn Lake on Salt Spring Island
- $2,200 to the Mayne Island Conservancy Society to cover appraisal and assessment costs associated with a potential land purchase on Mayne Island.

Geographically Restricted Funds

Some people who donate to the Islands Trust Fund prefer to designate their donation to a specific project or island. To accommodate this request, the Trust Fund Board holds several geographically-specific accounts. In 2013-2014, the Islands Trust Fund received $1,071 in donations for the Lasqueti Island Acquisition Fund.

Goal 7: Take Care of What We Have

Acquiring a property or signing a conservation covenant is just the first step in ecosystem protection. The Islands Trust Fund endeavours to monitor and manage its core conservation areas to maintain and enhance existing biodiversity features (see http://www.islandstrustfund.bc.ca/protected-places/caring.aspx for more information).

Property Monitoring

[2] The Bowen Island Municipal Council has not agreed to implementation of NAPTEP in the Bowen Island Municipality, and the tax exemption is therefore not available to Bowen Island landowners (Strategic Plan 1.2.1).

The Islands Trust Fund annually monitors the conservation areas it protects to ensure high natural values are maintained. In 2013-2014, top management issues identified included serious riparian area damage by aggressive off-road vehicle activity in and around the Fairy Fen Nature Reserve on Bowen Island. The Islands Trust Fund is working with the Bowen Island Conservancy (management group) and the Ministry of Forests, Lands and Natural Resources to construct barriers for off-road vehicles on Crown land adjacent to the reserve.

Property Management

The Islands Trust Fund manages its nature reserves according to management plans, which identify long-term conservation, and in some cases, restoration goals. In 2013-2014, the Islands Trust Fund undertook the following management projects:

- Removed exotic and invasive species from the Morrison Marsh and Lindsay Dickson Nature Reserve (Denman), Trincomali Nature Sanctuary and Laughlin Lake Covenant (Galiano), and Andreas Vogt Covenant (Salt Spring)
- Commissioned a vegetation survey for District Lot 58 Nature Reserve (Galiano), and species-at-risk surveys at Tate and Mt. Tuam Covenants (Salt Spring), Little D'Arcy Island Covenant, and Windthrow Covenant (Sidney Island)
- Adopted 10-year management plans for DL 58 Nature Reserve and Trincomali Nature Sanctuary (Galiano)
- Commissioned trail building on DL 58 Nature Reserve to connect the protected area with larger Mid Galiano Conservation Network (Galiano)
- Initiated Sharp-tailed Snake and Cormorant nest monitoring program at Trincomali Nature Sanctuary (Galiano)
- Conducted soil-loosening, hydro-seeding and planting of a gravel pit at Long Bay Wetland Nature Reserve (Gambier)
- Registered conservation covenants on the Mt. Trematon Nature Reserve (Lasqueti), and the Long Bay Wetland, Brigade Bay Bluffs and Mount Artaban Nature Reserves (Gambier)

5. Local Trust Committees and Bowen Island Municipality

A local trust committee exists for each group of islands designated as a local trust area under the *Islands Trust Act,* except for Bowen Island, which is an island municipality.

Each local trust committee has three members — two locally elected trustees and one Executive Committee member who serves as Chair. A local trust committee is responsible for land use planning and regulation for its area of jurisdiction. The responsibilities include preparation and adoption of Official Community Plans, Land Use Bylaws, zoning and subdivision bylaws, regulation of soil removal and deposit, and authorization of permits under Part 26 of the *Local Government Act*.

The Bowen Island Municipality is served by a seven-member Council, which holds broad municipal powers including land use planning. Two of the municipal councillors are elected to Trust Council by the community.

Ballenas-Winchelsea Islands (Executive) Local Trust Committee

The Executive Committee acting as a local trust committee (**Ballenas-Winchelsea Islands**) held three regular business meetings, two special business meetings, one public hearing, and one community information meeting in Nanoose, BC.

The local trust committee has been continuing with progress towards the adoption of the first Official Community Plan and Land Use Bylaw for the islands in the local trust area. Adoption of both bylaws No. 27 and 28 is anticipated by mid-2014 with key issues having been addressed such as recognition of First Nations concerns, shellfish aquaculture and the disposal of Crown lands.

Bowen Island Municipality

Councillors Wolfgang Duntz and Andrew Stone represent Bowen Island Municipality on the Islands Trust Council. Bowen Island Municipality produces its own annual report, which can be found online at www.bimbc.ca. Ensure live link

Denman Island Local Trust Committee

The Denman Island Local Trust Committee held 11 regular business meetings in the 2013-2014 fiscal year. Work continued on addressing the negative impacts of certain aquaculture practices and possible regulatory measures to mitigate these on the Denman Island shoreline. As part of this initiative the local trust committee invited representatives from both the federal Department of Fisheries and Oceans and the provincial Ministry of Forests, Lands and Natural Resource Operations to provide public presentations on their agencies' respective roles in the

tenure-issuing and compliance-monitoring processes. As well, the Marine Advisory Planning Commission was requested to review the matter of controlling beach access from strategic beach access roads. *(Strategic Plan 1.1, 2.1, 2.4 and Islands Trust Policy Statement 3.1.1, 4.5.8).*

Public consultation in 2013 focused on a review of Official Community Plan housing policies. This consultation process included a well-attended community information meeting in the late fall and the outcomes of the process resulted in a focus upon creating greater opportunities to develop attainable housing with a focus upon secondary suites and secondary dwelling units. Draft bylaws to amend the Official Community Plan and Land Use Bylaw were developed and reviewed by the Advisory Planning Commission and were sent out for early referral comments. Also in this period the bylaws necessary to enable the Denman Community Land Trust Association affordable housing project received final approval and all the permits necessary to comment the project were issued. *(Strategic Plan 4.3.1, 4.3.2 and Islands Trust Policy Statement 5.8.6).*

A stream mapping and assessment contract was completed for the five remaining *Riparian Area Regulation* applicable watersheds to complete the first necessary step towards complying with the provincial regulation. A public consultation process is planned for the spring and early summer of 2014. Input from that process will be used to review draft amendments to Development Permit Area 4: Streams, Lakes and Wetlands, as well as an accompanying draft Development Approval Information Bylaw. *(Strategic Plan 1.3.3, 3.3 and Islands Trust Policy Statement 3.3.2)*

Gabriola Island Local Trust Committee

The Gabriola Island Local Trust Committee held ten regular business meetings, one special meeting, three public hearings, and two community information meetings in the 2013 - 2014 fiscal year.

The focus of the Gabriola Island Local Trust Committee's work this fiscal year was to implement the *Riparian Areas Regulation*. A community information meeting was held in July with biologists as guest speakers, followed by a public hearing in September. As a result of input received before and during the public hearing further mapping was done to reduce the development permit area, and a second public hearing was held in March. (*Strategic Plan 1.3.5, 3.3 and Islands Trust Policy Statement 3.3.2*)

The local trust committee also held a public hearing for a bylaw to designate Mudge Island as an area for which development approval information may be required, and drafted bylaws for Gabriola to amend zoning in parks (*Islands Trust Policy Statement 3.1.3, 3.1.4*), to implement greenhouse gas emissions reduction policies, (*Strategic Plan 1.6 and Islands Trust Policy Statement 3.1.5*) and to amend agricultural policies (*Strategic Plan 4.4 and Islands Trust Policy Statement 4.1.5, 4.1.6, 4.1.8*).

Notable development applications included a development permit amendment and new development permit area application for a significant commercial development site in the village.

Galiano Island Local Trust Committee

The Galiano Island Local Trust Committee held ten regular business meetings, two special meetings and five public hearings. The local trust committee received and considered applications or referrals for one rezoning, six development permits and four development variance permits.

The local trust committee also concluded several applications received in the previous period, most notably a rezoning of a Forest zoned property on North Galiano to permit the development of 12 residential lots and the large remainder being transferred to the province (BC Parks) to be added eventually to Bodega Ridge Provincial Park. One other similar application was approved in early 2014 and one initiated in 2013.

Projects initiated or completed during this period included a series of phased amendments to the Land Use Bylaw, implementing policy changes identified in the Official Community Plan, which was amended in 2011, and improving clarity and consistency. Additional projects initiated include addressing short-term vacation rentals, and revising the Elevated Groundwater Development Permit Area, (*Strategic Plan 3.3 and Islands Trust Policy Statement directive policy 4.4.2*).

Gambier Island Local Trust Committee

The Gambier Island Local Trust Committee held nine regular business meetings, two public hearings, and two community information meetings in Gibsons, West Vancouver, and on Keats and Gambier Islands.

The Gambier Island Local Trust Committee adopted a new Land Use Bylaw for the Gambier Associated Islands in September 2013. It also oversaw the preparation of a sustainability guide to serve property owners building in the northern

local trust areas and the Howe Sound, encouraging voluntary stewardship, sustainable energy, reducing greenhouse gas emissions, and protecting water quality and quantity *(Policy Statement 3.3.3, 4.4.4, 4.4.7, 5.1.4, 5.4.5, 5.8.8 and Strategic Plan 1.1, 1.6, 3.3)*. Throughout the fiscal year, the local trust committee liaised with government agencies and neighbouring local governments on cross-jurisdictional activities occurring in Howe Sound. In October 2013, the local trust committee joined the Coastal Douglas Fir and Associated Ecosystem Conservation Partnership *(Strategic Plan 1.5.3)* and in February 2014, hosted a webinar for the Howe Sound Community Forum *(Strategic Plan 2.3.9)*. Most recently, the local trust committee began work on foreshore protection focusing on mapping, education, and voluntary stewardship (*Strategic Plan 1.1, 2.1*); this work will continue into 2015.

Notable development applications included the approval of a rezoning application for a community dock and renewed work on two longstanding rezoning and subdivision files."

Hornby Island Local Trust Committee

The Hornby Island Local Trust Committee held eight regular business meetings for this fiscal period. The focus of public consultation for 2013-2014 was the completion of the review of the current Official Community Plan and Land Use Bylaw. A community information meeting was held in October to review draft Official Community Plan amendments. The results of this meeting were included in the Advisory Planning Commission's review of the draft Official Community Plan which was subsequently sent out for early referral *(Strategic Plan 1.3, 3.3, 4.3, 4.5)*.

A stream mapping and assessment contract was completed for the remaining unmapped portion of the Beulah Creek watershed as well as three other *Riparian Area Regulation* applicable watersheds to complete the first necessary step towards complying with the provincial *Riparian Areas Regulation*. *(Strategic Plan 1.31, 1.3.3, 3.3)*

Lasqueti Island Local Trust Committee

The Lasqueti Island Local Trust Committee held five regular business meetings and one community information meeting on Lasqueti Island. With regards to the Local Trust Committee Work Program top priorities, the local trust committee accomplished the following

(1) *Riparian Areas Regulation* Compliance – The local trust committee approved a project charter and communication plan. A second watershed assessment report was completed, supplementing the report that was done the previous year. The local trust committee endorsed using a setback and screening regulation approach to become compliant with the *Riparian Areas Regulation*, and is planning a community information meeting for the summer of 2014. *(Strategic Plan 1.3 – Protect Fish Habitat by Implementing Riparian Areas Regulation)*

(2) False Bay Master Plan –The local trust committee approved a project charter and communication plan. A community information meeting was held in regards to – land use/density and bed and breakfasts having secondary kitchens. A second community information meeting relating to parking and hunting is being planned for April 2014.

(3) Update Official Community Plan with Intertidal zone policies using specific recommendations from the forage fish team and the Greenshores and Eelgrass Project – Eelgrass Mapping was completed for Lasqueti Island *(Strategic Plan 1.1 Encourage voluntary Stewardship of the Natural Environment and, 2. Protect Coastal and Marine Ecosystems)*.

Mayne Island Local Trust Committee

The Mayne Island Local Trust Committee held eight regular business meetings, two special meetings, three community information meetings and two public hearings. The local trust committee considered applications for one rezoning and two temporary use permits.

Projects initiated, conducted or completed during this period included work on bringing the local trust committee's bylaws into compliance with the *Riparian Areas Regulation* (*Strategic plan 1.3 and Islands Trust Policy Statement policy 3.3.2*), a project to review policies to support fallow deer eradication, amendments to permit and regulate secondary suites, amending potable water requirements for boundary subdivisions, and initiating a series of technical amendments to the Official Community Plan and Land Use Bylaw.

North Pender Island Local Trust Committee

The North Pender Island Local Trust Committee held ten regular business meetings, one special meeting and two community information meetings. The local trust committee received and considered applications for three rezonings, three development permits, three development variance permits, one temporary use permit and one liquor licence referral.

Projects initiated, underway or completed during this period included continuation of the shoreline conservation initiative, including creation of two publications and a community event with nine other agencies, a project to implement conservation subdivision design principles (*Islands Trust Policy Statement policies 3.1.3, 3.1.4, 3.2.2 and 3.3.2*), and a series of technical amendments to the Land Use Bylaw.

Salt Spring Island Local Trust Committee

The Salt Spring Island Local Trust Committee held 16 regular business meetings, four special business meetings, four public hearings, and four community information meetings between March 2013 and April 2014.

In July 2013, the Salt Spring Island Local Trust Committee adopted a bylaw to permit secondary suites on Salt Spring Island. A program for implementation has been advancing through the production of information materials to assist land owners in understanding the requirements; the production of a water conservation brochure; collaboration with Capital Regional District building inspection staff to ensure consistent communications; and, considering a subsequent Official Community Plan amendment to have temporary use permits be used to allow secondary suites and care cottages where they are not currently allowed by zoning. (*Strategic Plan 4.3.1, 4.3.2*).

In March 2014, the local trust committee completed the mapping of 26 watersheds under the *Riparian Areas Regulation* (RAR). More than 200 kilometres of streams were mapped within 1-5 metre accuracy using GPS by Qualified Environmental Professionals (QEPs). QEPs also gave recommendations to the local trust committee on the implementation of the RAR. The implementation of the RAR is being advanced with policy and regulatory development (*Strategic Plan: 1.3.3*).

Throughout 2013-2014 fiscal year, the Industrial Advisory Planning Commission (IAPC) met 17 times to develop recommendations to the local trust committee that would promote the socio-economic diversity on Salt Spring Island which will furnish Salt Spring Island with sufficient commercial and industrial land for the next 25 years (*Strategic Plan 4.5.1*). The IAPC also helped draft a Terms of Reference, and provide feedback for an Industrial Land Needs Assessment conducted by Urbanics Consultants Ltd. Urbanics' final report was submitted in August 2013.

The local trust committee also advanced work on collaborative watershed management, with a focus on remediating St. Mary Lake by working with other agencies through coordinating the Salt Spring Island Watershed Protection Authority (SSIWPA). The local trust committee received delegated powers to coordinate SSIWPA in June 2013 and had a special property tax requisition approved by the Islands Trust Council in March 2014 to fund the coordination (*Strategic Plan 3.4.1, 3.4.2*).

The Salt Spring Island Local Trust Committee restructured its advisory bodies. The local trust committee adopted a new Advisory Planning Commission Bylaw which amalgamated the previous Environmental Advisory Committee, the Advisory Design Panel and the previous Advisory Planning Commission. The new Advisory Planning Commission bylaw retains Salt Spring's Agricultural Advisory Committee as an Agricultural Advisory Planning Commission and continues to allow special project APCs to be created on an as needed basis.

There were some notable development applications initiated in 2013-2014, including a temporary use permit for metal recycling and associated uses, and two large rezoning applications. One large rezoning application is for consideration of 50 guest accommodation cottages on Bullock Lake and the other is for an 80-unit affordable housing project in the Ganges Village core. In total, three applications included rezoning for affordable housing developments.

Saturna Island Local Trust Committee

The Saturna Island Local Trust Committee held five regular business meetings, one special meeting and one community information meeting. The local trust committee considered two Agricultural Land Reserve applications, two development variance permits, one development permit and frontage waivers and covenants related to two subdivision referrals.

Projects initiated, conducted or completed during this period included a review of the community amenity density reserve, development of temporary use permit guidelines for short-term vacation rentals and a review to consider permitting and regulating secondary suites.

South Pender Island Local Trust Committee

The South Pender Island Local Trust Committee held five regular business meetings, three special meetings, three community information meetings and one public hearing. The local trust committee received and considered applications or referrals for one development variance permit during the reporting period.

Projects undertaken during this period included an on-going review of the Land Use Bylaw and support for a shoreline mapping component for the Islands Trust MapIT program. The shoreline mapping initiative was a project to increase shoreline awareness by expanding the public mapping website to include additional shoreline related data and educational materials. The local trust committee also considered implementing policies and regulations for ocean loop geo-thermal systems.

Thetis Island Local Trust Committee

In 2013-2014, the Thetis Island Local Trust Committee held seven regular business meetings and two community information meetings. The local trust committee prepared a first-ever Official Community Plan and Land Use Bylaw for the local trust area's associated islands, nine small islands that had limited or no regulatory mechanisms for their preservation and protection pursuant to the Islands Trust mandate. In early 2013, the local trust committee began a priority project on shoreline protection focusing on education, mapping and voluntary stewardship (*Strategic Plan 1.1, 2.1*). In November 2013, Thetis Island Local Trust Area became the focus area for further exploration of the Green Shores draft Credit Rating System (*Strategic Plan 2.1.3*) which continues to be supported in part by the Real Estate Foundation of British Columbia. Work also continued on implementing provisions necessary to meet the *Riparian Areas Regulation* on Thetis Island (*Strategic Plan 1.3.5.*); this work will continue in 2014.

6. Climate Change Action

Climate change will have serious consequences on our island ecosystems, from oceans to shorelines to forests, and on the economies and communities that depend on them. Islands Trust Council's strategic plan (1.6) maintained the goal of reducing greenhouse gas emissions in the Islands Trust Area and continued to take action in three areas to honour our commitments under the BC Climate Action Charter.

1) For the second year, the Islands Trust achieved carbon neutrality in its operations through performing an emissions inventory and purchasing carbon offsets to achieve neutrality. Emissions in 2013 were 62.74 tonnes of CO_2, down slightly from 2012. Those emissions are neutralized by purchasing carbon offsets through the Community Carbon Marketplace, an initiative of the Cowichan Energy Alternatives Society which helps grow the local low-carbon economy. Ongoing steps to reduce the Islands Trust's operational carbon footprint include:
   - Encouraging trustees and staff to share vehicles and use the Victoria and Nanaimo Car Share Programs;
   - Using paperless meeting management software to reduce paper consumption; and,
   - Conducting meetings over the web rather than travelling to meetings.
2) Local trust committees continue to explore innovative ways of using new planning tools (Bill 27) to implement Official Community Plan policies that would reduce greenhouse gas emissions. Salt Spring Island Local Trust Committee also amended its meeting procedure to allow electronic meetings, thereby reducing travel.
3) The Trust Fund Board continues to protect land with high carbon storage and is completing Eelgrass mapping which will facilitate better protection of this essential ocean-based carbon sink.
   Detailed information is contained in our Climate Action Revenue Incentive Public Report for 2013 located on our website at [insert link]

(Strategic Plan 1.6.2)

7. Administrative Fairness

Islands Trust policy requires the reporting of the number of administrative fairness complaints received each year. There was one complaint in 2013-2014 regarding staff and local trust committee procedures. The complaint was handled according to the Island Trust Council's policy. Complainants who are unsatisfied with the outcome of the Islands Trust's complaint handling procedure are advised of the option of making a complaint to the BC Office of the Ombudsperson. In 2013-2014, the Office of the Ombudsperson did not receive any complaints about the Islands Trust.

8. Legal Action

In accordance with Islands Trust policies, enforcement actions are primarily triggered when the Islands Trust receives complaints from community members that indicate that individuals or corporations are not complying with the land use regulations that their locally-elected representatives have adopted. Efforts are then made to investigate complaints, educate violators and obtain voluntary compliance with a community's bylaws. In most cases, violators have a variety of options, including ceasing or amending their operations, or applying for variances or required permits.

Islands Trust staff estimate that more than 90% of its bylaw investigation files are resolved before legal action is required. Legal action is only taken after other avenues to achieve compliance have failed. Local trust committees may request legal action if other avenues for achieving bylaw compliance fail. The Executive Committee considers and is responsible for approving the funding of any legal action requested by a local trust committee.

The following are highlights of court decisions received in cases initiated by local trust committees during 2013-2014:

Denman Island's Bylaw for Komas Bluff

In December 2013, the BC Court of Appeal was unanimous in dismissing an appeal of a decision of the Supreme Court of BC, thereby continuing to uphold the Denman Island bylaw that regulates development on the Komas Bluff. The decision relates to construction and land alterations on the face, at the crest and on the plateau above the bluff.

The Komas Bluff Development Permit Area requires geotechnical studies before activities such as tree-cutting and building construction can take place. In areas of BC that are subject to natural hazards, development permits are one of the primary mechanisms that local governments use to protect structures from flooding, mudflows, erosion, land slip, rock falls, avalanche and wildfire. While development is allowed, it must be done pursuant to permit conditions to reduce the risks associated with natural hazards. This normally happens as a matter of course. Legal action is very unusual, but this one property has now been the subject of three court cases. The Appeal Court confirmed the decisions made by previous courts.

Salt Spring Island Metal Recycling

This long-standing issue dates back to 2006 when neighbours first complained to the Islands Trust's bylaw enforcement office that the operations of Salt Spring Metal Recycling do not comply with the rural zoning that has been in place on the property since 1971.

Over the years the Salt Spring Island Local Trust Committee asked staff to help the business owner find a solution. Islands Trust planning staff proposed a range of solutions with no action taken. Faced with no voluntary compliance with the bylaw and on-going complaints from neighbours, the Salt Spring Island Local Trust Committee initiated legal action in November 2008.

The owner and operator of the business agreed to a Court Order by consent on September 25, 2013 in the Supreme Court of British Columbia to stop crushing metal on his Rainbow Road property and to apply to the Salt Spring Island Local Trust Committee for a Temporary Use Permit by October 30, 2013.

Pentlatch Seafoods Ltd.

The Denman Island Local Trust Committee has decided not to proceed with bylaw enforcement actions regarding Pentlatch Seafoods Ltd.'s aquaculture operations near Denman Island. The local trust committee has written to K'ómoks First Nation, which owns Pentlatch Seafoods Ltd., acknowledging that the outcome of treaty negotiations may affect its zoning authority in the area.

In April 2013, the K'ómoks First Nation, through its wholly owned company Pentlatch Seafoods Ltd., established aquaculture infrastructure at Henry Bay, contrary to Denman Island's zoning regulations, which identify the area for marine conservation. Pentlatch Seafoods Ltd. had previously obtained the necessary licenses and permits from provincial and federal government agencies.

In July 2013, in response to complaints from Denman Islanders about zoning violations, an Islands Trust bylaw enforcement officer wrote to Pentlatch Seafoods Ltd. advising them that the operation was not permitted in the W1 zone and requiring the removal of the "aquaculture infrastructure". In October 2013, the chief councillor of the K'ómoks First Nation advised the Denman Island Local Trust Committee that it was asserting its aboriginal rights and title through Pentlatch Seafoods Ltd.'s aquaculture operations in Henry Bay.

INSERT AUDITOR'S COVER LETTER AND AUDITED FINANCIAL STATEMENTS FOR ISLANDS TRUST AND TRUST FUND

Victoria Office
200–1627 Fort Street
Victoria BC V8R 1H8
Telephone 250.405.5151

Salt Spring Office
1–500 Lower Ganges Road
Salt Spring Island BC V8K 2N8
Telephone 250.537.9144

Northern Office
700 North Road
Gabriola Island BC V0R 1X3
Telephone 250.247.2063

www.islandstrust.bc.ca

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REQUEST FOR DECISION

To: Trust Council **For the Meeting of:** June 18-19, 2014

From: Executive Committee **Date:** June 5, 2014

SUBJECT: ADVOCACY COSTS, RESOURCES AND PRIORITIES

RECOMMENDATION:

That the Islands Trust Council direct policy staff to focus 60% of their time on Trust Council advocacy until December 2014, with half of that time on marine topics, one quarter on BC Ferries and one quarter on program decision-making frameworks and evaluation.

CHIEF ADMINISTRATIVE OFFICER COMMENTS: The Islands Trust Council has indicated an increasing interest in advocacy that seeks to influence senior governments and other agencies regarding actions that impact the social, economic and natural environment and amenities of the Islands Trust Area. This work has grown to a point that 60% of the Policy Advisor's time is now spent providing input into consultation opportunities, participating in working groups, drafting Chair correspondence, news releases or speaking notes, and working directly with staff from other agencies. While the demand for advocacy work continues to increase, including from some local trust committees, the level of staffing and other resources have not. The Trust Area Services (TAS) staff have many other duties, determined by legislative requirements, Trust Council policies, existing agreements, or other commitments. To some extent, the shortage of staff in the TAS unit has meant that the CAO has completed some related work, where TAS staff cannot complete time-sensitive items. Executive Committee recommends staff maintain a 60% focus on advocacy over the next six months. This would require 60 days of direct advocacy services from TAS staff and another 10 days from the CAO and clerical staff. Staff recommend reducing the focus on advocacy to 30-40% if Trust Council wishes to allocate time to neglected responsibilities such as reviewing the policy statement, updating or creating new operational policies, new orientation and educational materials for Trust Council, updating or entering new protocol agreements and completing the Crown Land profiles for Gambier, Keats, Anvil and Bowen Islands.

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL: Trust Area Services staff track the time they spend on all work program areas. Over the last six months, advocacy has averaged 60% for the Policy Advisor and 10% for the TAS Director. Each day staff spend on an advocacy task generates approximately 1 hour of clerical time. In addition, there is CAO and/or Chair time required to discuss strategy, to review drafts and/or deliver the message to media or local audiences. This ancillary time is not considered in this report.

POLICY: No implications for existing policy.

FINANCIAL: The Trust Area Services project budget is $8,000, which can be used for contract services or publications. The costs of salary and benefits to support this recommendation is about $25,000, accommodated within the existing budget for staff.

IMPLEMENTATION/COMMUNICATIONS: As described in the attached table: "Advocacy costs, resources and priorities for July – December 2014."

BACKGROUND

In March 2014, Trust Council resolved to direct the Executive Committee to:

1. review financial, staff and trustee resources available for all advocacy activities, recognizing Council's focus on marine issues,
2. provide the results of the review with recommendations to Trust Council; and
3. oversee development of a draft framework for assessing advocacy campaign priorities and for selecting advocacy methods.

This Request for Decision is in response to the first two requests. Fulfilling the third request by September Trust Council depends on staff being able to commit a week of work to this task in August.

Typical advocacy work methods and products include:

1. Monitor legislative and regulatory changes for possible action
2. Monitor media for developments on the given topic
3. Research into past Trust Council and Executive Committee decisions and actions
4. Confirm consistency of proposed positions with the Islands Trust Policy Statement and Official Community Plan policies
5. Research into advocacy done by other local governments, partners and allies (including attending meetings or conference calls)
6. Research into evidence supporting or undermining the given position
7. Assess the risks of taking a given position, or not taking it
8. Assess opportunities for partnerships / alliances
9. Estimate workload implications for staff and trustees
10. Prepare elected officials for media calls
11. Draft letters (sometimes jointly with partners) for a designated spokesperson, usually the Chair
12. Draft major submissions for legislative / regulatory and environmental assessment consultation processes (e.g. BC Ferries and *Water Act*)
13. Organize educational workshops and presentations for elected officials and public
14. Draft resolutions and backgrounders for the annual conventions of the Association of Vancouver Island and Coastal Communities (AVICC) and the Union of British Columbia Municipalities (UBCM)
15. Prepare agendas and speaking notes for minister meetings and coordinate other participants (e.g. derelict vessels at UBCM)
16. Participate in inter-agency working groups
17. Communicate and report status to partners, public and elected officials

REPORT/DOCUMENT:

1. Advocacy costs, resources and priorities for July-December 2014.

KEY ISSUE(S)/CONCEPT(S):
Effective advocacy to promote the Islands Trust Object to external agencies, within the staff and budget resources available.

RELEVANT POLICY:

- Advocacy Policy 6.10.iii
    - The Islands Trust Council establishes overall advocacy direction through the Islands Trust Policy Statement, sets priorities through its strategic plan and takes advocacy positions by resolution.
    - When making decisions about new advocacy positions and actions, Islands Trust bodies will base those decisions on research, such as: a) a review of related past Trust Council and Executive Committee decisions and actions; b) consistency with the Islands Trust Policy Statement; c) consistency with Official Community Plan policies; d) relevant evidence; e) contextual information; f) an assessment of partnership opportunities; g) implications of proceeding or not proceeding with certain courses of action; and h) potential workload implications for staff and trustees.
    - Islands Trust bodies will consider the impact on existing work programs when considering advocacy positions.
- *Islands Trust Act*, sections 3 and 8
- Islands Trust Policy Statement Part 1: Roles and Responsibilities section
  The Islands Trust Council cannot effectively implement the Policy Statement without the support of all stakeholders. Assistance, cooperation and collaboration are required from local trust committees, island municipalities, the Trust Fund Board, the Provincial Government, other government agencies, non-government organizations, communities, First Nations, property owners, residents and visitors.
- Islands Trust Policy Statement policy 3.1.9:
  Trust Council encourages actions and programs of other government agencies which place priority on the side of protection for Trust Area ecosystems when judgment must be exercised; protect the diversity of native species and habitats in the Trust Area, and prevent pollution of the air, land and fresh and marine waters of the Trust Area.

DESIRED OUTCOME: Effective management of Trust Council's advocacy program, consistent with Trust Council's Strategic Plan, other objectives and the resources available.

RESPONSE OPTIONS

Recommended: That the Islands Trust Council direct policy staff to focus 60% of their time on Trust Council advocacy until December 2014, with half of that time on marine topics, one quarter on BC Ferries and one quarter on program decision-making frameworks and evaluation.

Alternative:

That Trust Council direct policy staff to allocate different proportions of time to the categories of advocacy work currently authorized.

Prepared By: Lisa Gordon, Director, Trust Area Services

Reviewed By/Date: Chief Administrative Officer – May 29, 2014
Executive Committee – June 3, 2014



_____
Chief Administrative Officer

TRUST COUNCIL ADVOCACY COSTS AND RESOURCES FOR JULY TO DECEMBER 2014

July-Dec 2014 Advocacy Program	July-Dec 2014 Resources	Status, milestones and due dates	Council Direction
AVAILABLE RESOURCES			
Budget $8000 x 50%	$4,000	July-Dec 2014	$8,000 base budget for all TAS projects
Policy Advisor days (85 total available @ 60%)	51 days	July-Dec 2014	
TAS Director days (88 available @ 10%)	9 days	July-Dec 2014	
Total staff days	60 days	July-Dec 2014	
ADVOCACY PROGRAM MANAGEMENT	15 days		
Advocacy Costs, Resources and Priorities (this RFD)	0	June TC	Executive Committee to review financial, staff and trustee resources available for all advocacy activities recognizing Council's focus on marine issues, and provide the results of the review with recommendations to Trust Council (March 2014)
Advocacy decision-making framework	5	Aug TPC / Sept TC	Executive Committee to oversee development of a draft framework for assessing advocacy campaign priorities and for selecting advocacy methods (March 2014)
Advocacy program evaluation	5	Aug TPC / Sept TC	"In the last year of every Islands Trust Council term the Executive Committee will review and evaluate the effectiveness of the advocacy work undertaken during the term." (Policy 6.10.iii)
Legislative monitoring	5	Dec TC	Regular report to council since 1996
MARINE TOPICS	30 days	July-Dec 2014	Strategic Plan: 2.3 "Advocate for protection of the Salish Sea and Howe Sound from oil spills, derelict vessels and industrial activities."
Letter of comment to National Energy Board re Trans Mountain Pipeline (Kinder Morgan)	10	July 2 EC meeting RFD. July 22 EC review letter. Aug 22 submit letter.	Dec 2013 direct staff to further examine the financial and staff resources necessary to participate in the National Energy Board hearing process into the Trans Mountain Pipeline Expansion Project and provide advice in a Resolution Without Meeting (RWM) for Council to consider early in 2014. Feb 2014 Trust Council RWM directing staff apply for letter of comment.

July-Dec 2014 Advocacy Program	July-Dec 2014 Resources	Status, milestones and due dates	Council Direction
Oil spills	8	Staff anticipate continued demand for response to requests for support from partners and to consultation opportunities.	Strategic plan directs chair correspondence, local government workshops and participation in mock oil spill exercises.
Derelict Vessels	3	Ongoing participation in the inter-governmental working group	Strategic plan: "Continue to advocate for senior government solutions to derelict vessels."
Howe Sound (Community Forum, BURNCO, LNG,)	3	Staff and trustees are attending Howe Sound Community Forum meetings, but no other specific action yet assigned.	Strategic Plan: "Advocate for a comprehensive Howe Sound management plan that ensures a balance between development and protection." "Advocate regarding potential impacts of the proposed Burnco Gravel Mine upon Howe Sound." Sept 2013 Council resolution: "request staff and trustees to participate in Howe Sound Comprehensive Management Plan meetings on September 18 and 25, to be followed by Executive Committee's consideration in October of staff advice regarding options for further action, in consultation with the local trustees of the Gambier Island Local Trust Area and Bowen Island Municipality."
Shellfish Aquaculture	2	This has been EC's highest priority for the last 3 months and most tasks are complete.	Strategic Plan 2.4: "Advocate for appropriate regulation of aquaculture". Dec 2013 Council resolution: "That the Executive Committee consider making "shellfish aquaculture issues" a top priority for advocacy".
NMCA	2	Aug 12 EC	Strategic Plan 2.2: "Advocate for the implementation of the NMCA." TC Resolution in Dec 2012. EC has requested an update, and staff are monitoring announcements.
Pleasure craft Sewage	2		Strategic Plan 2.5: "Advocate for effective regulation of marine sewage". Aug 20, 2013 - EC directed staff to develop map showing potential effect of regulatory amendments, and advocacy recommendations
Artificial Reef - Annapolis	0	Staff monitoring since 2011	Policy Statement opposing artificial reefs
NON-MARINE TOPICS	15 days		
BC Ferries	12	See briefing in June 18-19 Council package	Strategic Plan: "4.2 Advocate for sustainable, affordable and appropriate ferry service". May 2014 TPC recommendation to make BC Ferries top priority – see RFD

July-Dec 2014 Advocacy Program	July-Dec 2014 Resources	Status, milestones and due dates	Council Direction
UBCM resolutions	1	Aug EC / Sept TC	TC Policy: TC to endorse the positions the Islands Trust Executive Committee will take at the UBCM Convention (Sept 2014)
Water Act	1	Input to regulations would require further council direction	Strategic Plan 3.2: "Advocate for provincial Water Act reform".
New topics	1		Topics arising from correspondence, legislative monitoring or other new business.
Agricultural Land Reserve	0	May 2014 Chair letter to Minister	Dec 2013 request the Chair to write to provincial representatives to express concern over possible weakening of the British Columbia Agricultural Land Reserve, and asks the Executive Committee to strongly represent the Islands Trust Object in provincial consultations on this issue.
TOTAL DAYS	60		

REQUEST FOR DECISION

To: Islands Trust Council

For the Meeting of:: June 18-19, 2014

From: Lisa Gordon, Director, Trust Area Services

Date Prepared: May 28, 2014

SUBJECT: BC FERRIES ADVOCACY

RECOMMENDATIONS:

1. **That the Islands Trust Council prioritize BC Ferries advocacy with a focus on:**
   1) **BC Ferries' long-range plan (10-30 years);**
   2) **Need for the Province to fund ferry capital costs; and**
   3) **BC Ferries Commissioner's pre-performance term four process.**

2. **That the Islands Trust Council direct staff to provide a briefing to the incoming Trust Council regarding options for hosting a public forum for coastal communities on integrated marine transportation.**

CHIEF ADMINISTRATIVE OFFICER COMMENTS: Staff are conveying this recommendation from Trust Programs Committee, and have offered some context for Trust Council's decision. Executive Committee has also delivered a separate Request for Decision about the costs and resources currently available for the advocacy program, supporting the idea of spending more time on BC Ferries than any other single topic, but less time than on the marine advocacy program as a whole.

IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL: Making BC Ferries advocacy a top priority will mean that the topic receives more time and attention than other advocacy topics. Recent Trust Council resolutions have also committed staff and Executive Committee to working on the letter of comment to the National Energy Board about the Trans Mountain Pipeline Expansion Project and shellfish aquaculture. Strategic Plan advocacy topics that are worked on as time permits include derelict vessels, oil spill prevention and response, Howe Sound management, pleasure craft sewage, national marine conservation area, and Burnco gravel mine.(See RFD re Advocacy Costs and Resources for more detail.)

FINANCIAL: No financial implications.

POLICY: No implications for existing policy.

IMPLEMENTATION/COMMUNICATIONS: If Trust Council approves the recommendations in the RFD "Advocacy Costs, Resources and Priorities," staff will spend up to 12 days on BC Ferries advocacy.

OTHER: N/A

BACKGROUND

On May 12, 2014 the Trust Programs Committee passed the following motion:

> **TPC-2014-011**
> **It was MOVED and SECONDED,**
> That the Trust Programs Committee recommend to Trust Council that it prioritize BC Ferries advocacy with a focus on
> 1) BC Ferries' long-range plan (10-30 years);
> 2) Need for the Province to fund ferry capital costs; and
> 3) BC Ferries Commissioner's pre-performance term four process
>
> That the incoming Trust Council host a public forum for coastal communities on integrated marine transportation.

During the Trust Programs Committee meeting committee members discussed potential advocacy opportunities associated with BC Ferries' financial planning process for the next performance term. Trustees also discussed the need for BC Ferries to produce a long-term plan regarding infrastructure renewal as well as the need for integrated transportation planning that is constructive, proactive and creative.

Consultation/negotiating/regulatory processes for BC Ferries' performance term four contract (effective April 1, 2016 – March 31, 2020) may offer opportunities to advance the advocacy objectives in the proposed resolution.

Key dates/milestone include:

- September 22-26, 2014: Union of BC Municipalities convention
- By September 30, 2014: BC Ferries submits information to the BC Ferry Commissioner for existing and anticipated core service level for performance term four, revenue, expenses, and other information, as well as a capital plan and efficiency plan. The commission will make the information public once it has severed commercially sensitive information.
- October 2014: Provincial budget consultations
- Fall 2014 - March 31, 2015: the BC Ferry Commissioner will make public the information provided by BC Ferries, seek public comment and make a determination regarding a preliminary price cap. There is no prescribed length of the consultation period.
- April 1, 2015 - 3.9 per cent fare increase
- April-June 2015: The Province develops the Coastal Ferry Contract (and determines the service fee) while communities react to the preliminary price cap.
- April 10-12, 2015: Association of Vancouver Island Coastal Communities Convention
- By June 30, 2015, the Coastal Ferry Services Contract is submitted to commissioner and shortly thereafter made public with any changes to core services or the government service fee that may have resulted from public input.
- By September 30, 2015, the Commissioner publishes the final fare cap that will take effect April 1, 2016.

BC Ferries advocacy summary

BC Ferries related activities directed by the Executive Committee, but not yet complete, include:

October 8, 2013 meeting:

- Assist the Chair in requesting meeting with BC Ferries CEO

October 14, 2009 meeting:

- Draft letter to BC Ferries re protocol agreement (on hold)

In 2014, the Islands Trust Executive Committee and/or the Islands Trust Council Chair has advocated about BC Ferries in the following ways:

- On February 19, 2014, Islands Trust staff submitted a Freedom of Information request to BC Ferries for the attached *Economic Impact Analysis* report. This request was made in a research capacity to inform future advice about advocacy on BC Ferries issues.

- On February 21, 2014 the Vancouver Sun published an opinion editorial by the Islands Trust Chair (in collaboration with trustees, staff and community members): http://www.vancouversun.com/Opinion+Without+marine+transportation+sunk/9536072/story.html

- On March 11, 2014 Islands Trust Council Chair spoke at BC Ferries rally at the BC legislature.

- On April 23, 2014 Islands Trust Council Chair wrote to Minister of Transportation and Infrastructure requesting a new report using current data that explains BC Ferries' economic role.

- March 14, 2014 Chair Sheila Malcolmson wrote to Gordon Macatee, BC Ferry Commissioner requesting a performance review of BC Ferries.
    - On March 21, 2014, the BC Ferry Commissioner responded that the suggested performance review will be included in the Commission's work schedule in the coming months.
    - On April 14, 2014, Minister Bond announced that Mr. Macatee would be the temporary administrator of WorkSafe BC. It is not yet clear what impact Mr. Macatee's departure will have on the BC Ferry Commission's work schedule.

- On March 31, 2014 Islands Trust Council Chair wrote to the Premier of British Columbia outlining concerns about the BC government's BC Ferries service cuts, fare hikes and infrastructure funding.
    - Premier Clark responded on April 8, 2014. She stated that she knew "the recent announcements have been hard on the people and communities most directly affected and we've done our best to mitigate the impact". She also explained that she has asked Minister Stone to ensure Chair Malcolmson is sent a detailed response on behalf of the Premier.

- On April 8, 2014, in response to the Islands Trust staff FOI request, BC Ferries released the *Economic Impact Analysis* report from 2000. Staff provided the report to Executive Committee members in advance of the Association of Vancouver Island and Costal Communities Convention which included a session about BC Ferries.

  The 2000 study's purpose was to analyze the economic impact of BC Ferries on the provincial economy and on the economies of the coastal communities it serves. Specific objectives of the project were to "develop a profile of the economies in coastal BC, to

describe BC Ferries' impact on these communities, to describe BC Ferries' role in tourism and commercial trucking, and to forecast the economic outlook of BC Ferries' service areas."

The report includes statements that could inform future advocacy messages such as:

- "In spite of financial losses to the Corporation, BC Ferries' spending is good news for the economy, specifically the local economies where the expenditures are made." (p. ii)
- "The existence of BC Ferries as a marine transportation carrier creates a number of impacts on local economies." (p. 4)
  - The report describes economic impacts relating to direct employment, direct expenditures, spin-off effects, and provision of free transportation. The report also describes impacts that are less tangible and more difficult to measure including improved tourism, prices for consumer goods, and lifestyle.
- "BC Ferries' spending creates impacts throughout the economy. The sectors benefiting the most are manufacturing; transportation and storage; business services; communications; wholesale trade; and finance and insurance." (p. 31)
- The Corporation's spending contributed $230 million to the province's Gross Domestic Product (GDP). BC Ferries' contribution to GDP is about 0.2%. In terms of economic sectors, BC Ferries contributes about 2% of total GDP within the BC transportation sector. (p. ii)

- On April 11, 2014, the Islands Trust Chair participated in a BC Ferries Special Plenary Session at the Association of Vancouver Island and Costal Communities Convention.

- On April 23, 2014 the Islands Trust Chair wrote to the Minister of Transportation and Infrastructure to provide him with the BC Ferries Economic Analysis Report and to request that the Ministry of Transportation and Infrastructure produce a new report using current data that explains BC Ferries' economic role.

- Ongoing - Trustee Law and Chair Malcolmson are participating in the UBCM Special Committee on BC Ferries which is developing an economic impact study on the effect of fare hikes and service cuts for completion in July 2014.

REPORT/DOCUMENT: Summary of Trust Council resolutions on BC Ferries December 2011-March 2014

KEY ISSUE(S)/CONCEPT(S): Policy Statement Object; effective use of staff and financial resources; sustainable, affordable and appropriate ferry services

RELEVANT POLICY:

- *Islands Trust Act*, section 3
  The object of the trust is to preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area and of British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the government of British Columbia.
- Islands Trust Policy Statement policy 5.3.1:
  Trust Council holds that local trust committees and island municipalities should be consulted and involved in the decision-making process regarding provision of utilities, transportation services or facilities that might affect land use in their local planning areas.

- Islands Trust Policy Statement policy 5.3.2:
  It is Trust Council's policy that no island in the Trust Area should be connected to Vancouver Island, the mainland or another island by a bridge or tunnel, notwithstanding the existing bridge between North and South Pender Islands.
- Advocacy Policy 6.10.iii
- Communications Policy 6.10.ii
- Islands Trust Council's 2011-2014 Strategic Plan strategy 4.2: Advocate for sustainable, affordable and appropriate ferry service

DESIRED OUTCOME: Sustainable, affordable and appropriate ferry services that support healthy island economies and diverse communities; strategic use of staff, trustee and financial resources; and appropriate allocation of resources to Trust Council advocacy priorities.

RESPONSE OPTIONS

Recommended:

1. **That the Islands Trust Council prioritize BC Ferries advocacy with a focus on:**
   1) BC Ferries' long-range plan (10-30 years);
   2) Need for the Province to fund ferry capital costs; and
   3) BC Ferries Commissioner's pre-performance term four process.

2. **That the Islands Trust Council direct staff to provide a briefing to the incoming Trust Council regarding options for hosting a public forum for coastal communities on integrated marine transportation.**

Alternative:

1. That Trust Council assign different priorities on advocacy and other policy work based on the RFD "Advocacy Costs, Resources and Priorities".
2. Amend the resolution to focus on funding the ferry system at a level that results in affordable fares.

Prepared By: Clare Frater, Policy Advisor, May 20, 2014

Reviewed By/Date: Lisa Gordon, Director, Trust Area Services, May 29, 2014
Executive Committee, June 3, 2014



Chief Administrative Officer

Attachment 1

Summary of Trust Council resolutions on BC Ferries December 2011- March 2014

March 2014

That the Islands Trust Council request the Chair to write to the BC Ferry Commissioner to ask that he conduct a performance review of BC Ferries with respect to cost effective management including cost allocations to the non-major routes

December 2013

That the Islands Trust Council request the Chair to provide a submission to the BC Coastal Ferries Community Engagement expressing Council's deep concern about the process by which ferry service reductions are being implemented, including:

- *Service cuts being imposed on top of fare increases above the rate of inflation that are expected to generate an additional $190 million this performance term;*
- *Elimination of sailings that are crucial to ferry users' employment , education and other core activities;*
- *Absence of any analysis of socio-economic impacts of service reductions;*
- *Lack of effective consultation with affected communities and of any consultation with local governments;*
- *Inadequate provision of sufficient information, time and resources to identify alternative options;*
- *Abandonment of the previous contractual requirement for BC Ferries to provide appropriate advance notice of schedules; and*

Lack of due regard for principles articulated in the Coastal Ferry Service contract, which states that "the coastal ferry service is integral to economic growth and development" and in the Coastal Ferry Act which provides for considering the interests of ferry users.

June 2013

That the Islands Trust Council direct the Chair to write to the appropriate government ministries outlining the importance of supporting families with children in the Islands Trust Area and encouraging funding for the supervision of young children using BC Ferries Route 13 and the Langdale Ferry Terminal to get to and from school.

December 2012

That the Islands Trust Council endorse the following principles, to inform the Chair's December 21 submission to the BC Coastal Ferries Consultation and Engagement process:

1. *Ferries are lifelines for coastal communities and businesses; as highways are in the rest of the province. Businesses and families invested on the islands based on an expectation that the Province would sustain ferry services. Provincial government support for coastal ferry service is not a subsidy or a privilege. In a coastal province, affordable ferry service is as much of a necessity as affordable public transit or affordable highway systems.*
2. *Ever-increasing fares are hurting our residents and reducing ridership. Fares have risen dramatically over the last six years and are imposing significant hardship on ferry dependent communities. The Province should immediately provide sufficient funding to significantly reduce fares on the minor routes as island communities have been hard hit by substantial cumulative fare increases.*
3. *Islanders acknowledge the budget challenges facing the provincial government and are willing to help find innovative solutions. But, they are telling us that the current consultation framework and lack of information prevents them from contributing meaningfully on coastal ferry governance and service issues.*
4. *British Columbia's prosperity depends on an integrated, accessible, and affordable transportation system that efficiently links all communities and businesses - whether separated by land or water.*
5. *Increasing island property taxes to help fund BC Ferries is unjustifiable in light of the fact that ferry users' fares already cover 85% of ferry operating costs; a much higher rate of fare box recovery than other BC transit systems.*

LEGISLATIVE MONITORING CHART
June 5, 2014

This document is intended to advise Trust Council about past or proposed external regulatory changes that could directly affect Islands Trust operations, local trust committee/island municipality bylaws or regulations, or Strategic Plan projects. It includes:

- provincial and federal legislative changes (new and amended acts, statutes and/or associated regulations);
- legislation under development with defined opportunities to provide input,
- senior government policies and consultation processes, such as reviews, studies and plans;
- new guidelines.

It also tracks legislative change requests from Island Trust bodies, submitted to the provincial government.

The Legislative Monitoring Chart is updated bi-annually using a range of sources, including Union of British Columbia publications, the websites of the Legislative Assembly of BC and the Parliament of Canada, provincial and federal news releases, the Canada Gazette and a variety of websites and RSS news feeds. Islands Trust also pays for an annual subscription to QuickScribe, which tracks all BC Statutes and Regulations. This chart is not intended to track potential advocacy topics, but may report legislative changes that relate to advocacy projects on Trust Council's Strategic Plan and might affect local planning (e.g. provincial agriculture, riparian regulations, fish farms) or Trust Fund Board. The chart is organized according to the following categories:

- Planned legislation — page 2
- Legislation in process — page 3-4
- Legislation in effect — pages 6-10
- New resources — pages 11-12
- Discussion/Planning/Trust Fund Board (TFB) related advocacy topics — page 13-17
- Legislative change requests — page 18-20

If Trust Council wishes to direct new staff actions on any of the topics in this report, a resolution adding a new business item to Trust Council's agenda is required.

Caveat: This chart is provided for convenience only and is not to be construed as a legal document or as legal advice.

PLANNED LEGISLATION	STATUS	BACKGROUND/ KEY IMPLICATIONS TO TRUST AREA	ISLANDS TRUST ACTION - PAST	ISLANDS TRUST ACTION - FUTURE
Agriculture regulations (Provincial)	Consultations to be planned	The Province has indicated that in consultation with the ALC, B.C.'s agricultural industry and the Union of BC Municipalities, amendments will be considered to current regulations to allow new, limited, value-added farming activities, such as food processing, on farmland.	None	Staff to monitor
Expense limits framework legislation for BC local elections (Provincial)	Comment period on the Expense Limits Discussion Paper closed January 31st, 2014.	The provincial government states that expense limits framework legislation will be developed for the 2018 local elections.	None.	
Groundwater regulations in support of *Water Sustainability Act* (Provincial)	Planned. ---------- Comment period on the Pricing B.C.'s Water discussion paper closed on April 8, 2014.	The groundwater regulations will be key to future water management in the Trust Area. The 130 public comments received as part of the water pricing consultation are being reviewed as part of the development of water fees and rentals options to be considered in 2014. Implementation not expected until 2016.	None.	Staff to monitor

LEGISLATION IN PROCESS	STATUS	BACKGROUND/ KEY IMPLICATIONS TO TRUST AREA	ISLANDS TRUST ACTION - PAST	ISLANDS TRUST ACTIONS - FUTURE
Tla'amin Final Agreement Act (Provincial and federal) (2013-14)	BC Royal Assent March 14, 2013 Third reading House of Commons April 28, 2014 Senate second reading: June 3, 2014 Effective Date expected to be in 2016.	The Tla'amin (Sliammon) Nation entered the British Columbia (BC) treaty process in May 1994. The Tla'amin Final Agreement is the fourth final agreement to be reached under the British Columbia treaty process, and gives the First Nation more control over land and resources, as well as self-government over their lands, resources and members. Once in effect (effective date likely in 2016), the Tla'amin Final Agreement will provide certainty with respect to the Tla'amin Nation's Aboriginal rights, including title. Tla'amin members will have the right to harvest wildlife and migratory birds for food, social and ceremonial purposes within the Wildlife and Migratory Birds Harvest Area. Tla'amin members will also have the right to gather plants for food, social and ceremonial purposes within the Tla'amin Plant Gathering Area. These rights are limited by measures necessary for conservation, public health or public safety. The Tla'amin Plant Gathering Area (Appendix T) includes Hornby, Denman and Lasqueti Local Trust Areas and could potentially include Trust Fund Board owned lands. The Provincial Public Planning Process Area (Appendix S) includes Lasqueti and Gambier LTAs (Thormanby islands). Under the Intergovernmental Agreement section of the Act there is provision for Tla'amin Nation and local governments to establish and maintain agreements that set out principles, procedures and guidelines for the management of their relationship (agreements can include coordination of land use issues). The Tla'amin Nation will have a treaty right to harvest fish and aquatic plants for food, social and ceremonial (domestic) purposes within the Tla'amin Fishing Area and the Tla'amin Herring Fishing Area (which include the Denman, Hornby and Lasqueti Local Trust Areas). Fishing will be in accordance with a harvest document issued by the Minister of Fisheries and Oceans. Tla'amin members' fishing rights will be limited by measures necessary for conservation, public health or public safety. Tla'amin commercial fishing will be fully integrated with the general commercial fishery and licences issued to, or acquired by, the Tla'amin Nation will be fished according to comparable terms and conditions applicable to other licences in the commercial fishery.	None.	Staff to continue to monitor

LEGISLATION IN PROCESS	STATUS	BACKGROUND/ KEY IMPLICATIONS TO TRUST AREA	ISLANDS TRUST ACTION - PAST	ISLANDS TRUST ACTIONS - FUTURE
Agricultural Land Commission Amendment Act, 2014 (also amends section 879 of the *Local Government Act*) (Provincial) (2014)	Royal Assent May 29, 2014.	The legislation divides the Province into two agricultural zones. Zone 1 will include the existing Island, South Coast and Okanagan; zone 2 will include the existing Interior, Kootenay and North. The mandate in Zone 1 will be similar to the current process with primary focus being on the preservation of agricultural land. The size and make-up of the Agricultural Land Commission (ALC) Board will be changed. Also, there will be more decision-making authority for regional panels, which potentially increases the pressure on board members to consider other local economic and social concerns. Section 11 of the Act amends section 879 of the *Local Government Act* (section 879) will require local trust committees to consult with the Agricultural Land Commission before first reading of an official community plan, or the repeal or amendment of an official community plan that might affect agricultural land.Currently the Agricultural Land Commission is engaged after first reading.	Chair sent letters to Minister of Agriculture on May 7, 2014 and December 20, 2013	Staff will continue to monitor.

LEGISLATION IN PROCESS	STATUS	BACKGROUND/ KEY IMPLICATIONS TO TRUST AREA	ISLANDS TRUST ACTION - PAST	ISLANDS TRUST ACTIONS - FUTURE
Marihuana for Medical Purposes Regulation (Federal) (2014)	Came into force on April 1, 2014	Health Canada on June 19, 2013 released a new regulation to cover the use of marihuana for medical purposes. The new regulation is intended to authorize the following key activities: 1) the possession of dried marihuana by individuals who have the support of an authorized health care practitioner to use marihuana for medical purposes; 2) the production of dried marihuana by licensed producers only; and 3) direct sale and distribution of dried marihuana by specific regulated parties to individuals who are eligible to possess it. The federal government has indicated the following: 1. That it will respect local government zoning and bylaws when determining whether to issue production licenses; 2. That only enclosed and indoor grow operations will be licensed; 3. That only dried marihuana may be produced and sold; 4. The site must be designed in a manner that prevents unauthorized access and there must be visual monitoring of the perimeter of the site at all times. The British Columbia Agricultural Land Commission (ALC) has released an information bulletin stating that "if a land owner is lawfully sanctioned to produce marihuana for medical purposes, the farming of said plant in the Agricultural Land Reserve (ALR) is permitted and would be interpreted by the Agricultural Land Commission as being consistent with the definition of "farm use" under the *ALC Act*." Production of the plant indoors is considered farming, similar to a vegetable greenhouse operation. Land use and zoning bylaws of an individual local trust area provide regulations concerning land use. Servicing of new development may be governed by bylaws of an applicable regional district, water purveyor, fire service area, or community association.	Local Planning staff analyzing bylaws for all LTCs and bringing reports forward with recommended changes to the bylaws.	Local trust committees consider their preferred approach for bylaw amendments in consideration of the new *Marihuana for Medical Purposes Regulation*.

LEGISLATION IN EFFECT	STATUS	KEY IMPLICATIONS TO TRUST AREA	ISLANDS TRUST ACTIONS-PAST	ISLANDS TRUST ACTIONS – FUTURE
Liquor Control and Licensing Amendment Act, 2014 (Provincial) (2014)	Royal Assent May 29, 2014.	S.11.3 gives local governments a say on where liquor is sold (by referencing s.12) and s.11.4 allows local governments to collect fees. The amendments could mean that local trust committees and Bowen Island Municipality could see more applications, especially for sale in grocery stores. In some instances, zoning regulation might not permit the sale of liquor in grocery stores depending on definition or interpretation.	None.	Planners could advise LTCs on approach to review whether their bylaws restrict liquor sales in grocery stores.
Local Government Act (via *Miscellaneous Statutes Amendment Act, 2014*) (Provincial) (2014)	*Miscellaneous Statutes Amendment Act, 2014* granted Royal Assent May 29, 2014.	Amendments to the *Local Government Act* provide for the termination of land use contracts in all municipalities and regional districts on the "sunset" date of June 30, 2024. Requires all local governments to have zoning in place for lands covered by land use contracts by June 30, 2022. New powers for Boards of variances to consider orders in situations where local governments terminate land use contracts early.	Planning staff has identified all land use contracts in the Islands Trust Area.	Planners will advise relevant LTC on approach, if any, for zoning amendments and whether to terminate the contract early. LPS staff to update orientation materials for boards of variances. LTCs to ensure zoning in place for lands covered by land use contracts by June 30, 2022.

LEGISLATION IN EFFECT	STATUS	KEY IMPLICATIONS TO TRUST AREA	ISLANDS TRUST ACTIONS-PAST	ISLANDS TRUST ACTIONS – FUTURE
Riparian Areas Protection Act (formerly *Fish Protection Act*) (*Amended via Water Sustainability Act*) (Provincial) (2014)	*Water Sustainability Act* granted Royal Assent May 29, 2014	Amended to transfer most of the non-fish related stream protection measures to the new *Water Sustainability Act,* to rename the *Fish Protection A*ct as the *Riparian Areas Protection Act*. Amendments enable the Minister to make any kind of directive (previously limited to policy directives) and provide more powers to the Minister to make regulations. To avoid being on the list of local governments not in compliance with the Riparian Area Regulation, the local trust committees will have to have adopted a bylaw to implement RAR by October 1, 2014; being in the process of undertaking mapping or developing a bylaw will not count. Background: Office of the British Columbia Ombudsperson Report- Striking a Balance: The Challenges of using a Professional Reliance Model in Environmental protection – British Columbia's Riparian Areas Regulation For more details see the June 2014 Trust Council briefing Riparian Areas Regulation Implementation Update	June 2014 Trust Council briefing Riparian Areas Regulation Implementation Update	Local trust committees must adopt a bylaw to implement RAR by October 1, 2014 to avoid being on list of local governments not in compliance with the Riparian Areas Regulation.
Local Elections Campaign Financing Act, 2014 (Provincial) (2014)	Royal Assent May 29, 2014	The new *Local Elections Campaign Financing Act* requires third party advertising sponsors to not accept anonymous sponsorship contributions with a total value of more than $50 and for third-party advertisers to register with Elections B.C. Candidates must now file disclosure statements and supplementary reports with Elections BC. This means that Islands Trust is no longer responsible for this role. More information : http://www.cscd.gov.bc.ca/LocalGovtElectionReform/	Staff have prepared an RFD for Trust Council's June 2014 meeting re related amendments to the Trust Council Election Procedures Bylaw.	Trust Council to consider amendments to the Election Procedures Bylaw (must be complete by August 2014).

LEGISLATION IN EFFECT	STATUS	KEY IMPLICATIONS TO TRUST AREA	ISLANDS TRUST ACTIONS-PAST	ISLANDS TRUST ACTIONS – FUTURE
Local Elections Statutes Amendment Act, 2014 (Provincial) (2014)	Royal Assent May 29, 2014	The *Local Elections Statutes Amendment Act* (LESAA) is the companion piece of the campaign finance legislation. It describes how election participants will transition from the old rules to the new campaign finance rules and includes some other changes to local elections. Most of the proposed changes will take effect for the November 2014 local elections. The Act includes non-substantive consequential amendments to the *Islands Trust Act.* Provincial agencies are developing communications and educational tools related to these changes.	None.	Trust Council could direct staff to provide a briefing/RFD regarding potential changes to the oath of office
Off-Road Vehicle Act, 2014 (Provincial) (2014)	Royal Assent March 24, 2014	The Act provides officers with includes the ability to stop and inspect off-road vehicles for violations, seize an Off-road vehicle for safety or evidence purposes, and increase the maximum fine for offences from $500 to $5,000. Drivers on off-road vehicles have caused damage to sensitive ecosystems in the Islands Trust area, including on the Trust Fund Board's Fairy Fen Nature Reserve on Bowen Island. Background: see http://www.islandstrustfund.bc.ca/news/news-releases/2013-08-26.aspx	Nuala Murphy, Islands Trust Fund Property Management Specialist is a member of the UBCM Off-Road Vehicle Working Group	

LEGISLATION IN EFFECT	STATUS	KEY IMPLICATIONS TO TRUST AREA	ISLANDS TRUST ACTIONS-PAST	ISLANDS TRUST ACTIONS – FUTURE
Water Sustainability Act (Provincial) (2014)	Royal Assent May 29, 2014 Comes into force after April 2015.	The 140-page *Water Sustainability Act* create regulatory changes in seven key areas: 1. Protect stream health and aquatic environments 2. Consider water in land use decisions 3. Regulate and protect groundwater 4. Regulate water use during times of scarcity 5. Improve security, water use efficiency and conservation 6. Measure and report large-scale water use 7. Provide for a range of governance approaches. The details of the changes, and the extent of new responsibilities for local governments, will be revealed when the supporting regulations are developed. Provincial implementation: With the size and complexity of the new Act and the number of proposed regulations, the provincial government will implement the Act in a phased approach over several years, starting with regulations related to groundwater and water fees and rentals.	Many conversations and meetings between Islands Trust and Ministry of Environment staff 2008-present April 30, 2010 Islands Trust staff submission. February 2011, Executive Committee response to the provincial Policy Proposal. October 2013, Chair requested extension to consultation deadline. November 2013, Executive Committee submission January 2014: Gulf Island Groundwater Protection Tool Kit	Staff to continue to monitor. Trust Council may wish to direct staff to engage in consultations about the proposed regulations.

LEGISLATION IN EFFECT	STATUS	KEY IMPLICATIONS TO TRUST AREA	ISLANDS TRUST ACTIONS-PAST	ISLANDS TRUST ACTIONS – FUTURE
Local Government Act/Climate Charter ***(***via *Local Government (Green Communities) Statutes Amendment Act* (Bill 27) (2008-14) (Provincial)	In-effect as of October 1, 2008.	▪ Requires municipalities and Local Trust Committees to include GHG emission targets, polices, and actions in their OCPs by May 21st 2010 ▪ Requires regional districts to include GHG emission targets, polices, and actions in their RGS by May 31st 2011 ▪ Expands local government Development Permit Area and zoning variance authority to promote energy and water conservation, the reductions of GHGs, and encourage alternative transportation options for off-street parking. ▪ Expands Regional District's Development Cost Charges authority to exempt small, energy efficient development.	Eighteen OCPs amended. OCP to be amended: • Piers Island Kim Farris, Planner 1 is on the Capital Regional District's (CRD) Climate Change Action Group Kristin Aasen, Planner 1, is on the CRD's Transportation Commission for Salt Spring Is.	Ongoing routine efforts to address greenhouse gas reduction through local trust committee bylaws and evaluation of development applications.

NEW RESOURCES	STATUS	SUMMARY	ISLANDS TRUST ACTIONS - PAST	ISLANDS TRUST ACTIONS - FUTURE
2014 amendment to Flood Hazard Area Land Use Management Guidelines	Consultation closes August 8, 2014	New guidelines for land use development in areas affected by sea level rise are under consideration by the Ministry of Forests, Lands and Natural Resource Operations. The flood hazard area land use management guidelines update represents a significant policy change that will impact land use and development decisions made by local governments in coastal areas. Current state of science on sea level rise indicates a 1m increase by 2100 for south coast BC.The draft amendment is based on a series of technical studies (Ausenco Sandwell, 2011), as well as discussion with local governments and stakeholders over the past three years. Guidelines are not mandatory, but s. 910 of the *Local Government Act* states that local governments "must consider" the guidelines when making floodplain bylaws .	Sonja Zupanec, Island Planner, is on the Ministry of Environment's Flood Hazard Area Land Use Management Guidelines working group.	LPS staff submission to consultation planned. Once guidelines are adopted, Trust Council may want to consider a Trust-wide consistent response.
Updated provincial Guide for Bylaw Development in Farming Areas.	Released in December 2013	The revised version incorporates new standards established under section 916 of the *Local Government Act* and incorporates standards previously established by the Ministry including:· Temporary Farm Worker Housing, Edge Planning, Residential Uses in the ALR and Combined Heat and Power Generation in the ALR.	Guide is used by planning staff when recommending amendments to regulations affecting ALR lands.	

NEW RESOURCES	STATUS	SUMMARY	ISLANDS TRUST ACTIONS - PAST	ISLANDS TRUST ACTIONS - FUTURE
Local Government Tools Supporting Species and Ecosystems at Risk: A Resource Guide for the South Coast of British Columbia	Released in May 2014	This document is a resource guide for local governments, decision-makers and those involved in land use stewardship. This is the first regional pilot to implement recommendations jointly prepared by the provincial Species and Ecosystems at Risk and Local Governments Working Group (SEAR LGWG) within the discussion paper Working Together to Protect Species at Risk: Strategies Recommended by Local Government to Improve Conservation on Municipal, Regional and Private Lands in British Columbia which was completed in January 2011.	Marnie Eggen, Planner 2 is a member of Species and Ecosystems at Risk (SEAR) Local Government Working Group (LGWG) and attends semi-annual teleconference meetings, attended 2013 workshop, complied a response on behalf of Islands Trust to the recommendations aimed at local governments that came from the Discussion Paper Working Together to Protect Species at Risk: Strategies Recommended by Local Government to Improve Conservation on Municipal, Regional and Private Lands in British Columbia.	Local planning services staff will be working with Islands Trust Fund staff to provide input on the upcoming review of the Islands Trust Regional Conservation Plan in order that the Plan can help provide advanced information useful to land use planners working towards conservation on private lands. Staff will continue to participate in the working group.
Community Energy & Emissions Inventory (CEEI)	Updated reports released in February 2010	In February 2014, updated CEEI reports using 2010 data were made public. The CEEI represents energy consumption and greenhouse gas emissions from community activities in on-road transportation, buildings and solid waste. Estimates of land-use change from deforestation activities and enteric fermentation from livestock under the Agricultural sector are also available at the Regional District level. These reports underpin climate action goals in official community plans. The 2007 reports continue to be available.	Posted links to the CEEI reports on the Islands Trust website.	Staff will add to LTC agendas

DISCUSSION/ PLANNING/TFB RELATED ADVOCACY TOPICS	STATUS	SUMMARY	ISLANDS TRUST ACTIONS - PAST	ISLANDS TRUST ACTIONS - FUTURE
Coastal Douglas-fir Conservation Partnership	Partnership is active.	At its March 2013 meeting Trust Council signed on to the Coastal Douglas-fir and Associated Ecosystems Conservation Partnership (CDFCP) Statement of Cooperation. The Coastal Douglas-fir and Associated Ecosystems Conservation Partnership (CDFCP) is planning to combine and integrate existing data sources to create a landscape level plan that will highlight high priority lands for conservation and improved Crown and private land stewardship, focusing initially on uses for local and regional government planning. This landscape level plan will provide concrete action items/guidelines for local governments and other interested parties, such as model bylaws and amendments to Official Community that highlight stewardship of the CDF Zone.	Trust Council joined the partnership in March 2013. Kate Emmings, Islands Trust Fund Ecosystem Specialist, is a member of the Coastal Douglas-fir Conservation Partnership Steering Committee. The "CDF Zone Conservation Strategy" was identified by the Executive Committee as a topic for the 2011-2015 Continuous Learning Plan and an Information Session was scheduled for the June 2014 Trust Council meeting. Briefing with options provided to Trust Council in June 2014.	Possible Trust Council actions are suggested in the briefing provided to Trust Council in June 2014.

DISCUSSION/ PLANNING/TFB RELATED ADVOCACY TOPICS	STATUS	SUMMARY	ISLANDS TRUST ACTIONS - PAST	ISLANDS TRUST ACTIONS - FUTURE
Consultation on Amendments to Industry Canada's Antenna Tower Siting Procedures.	Consultation closed March 31, 2014. New procedures not yet in effect.	The Government of Canada is considering changes to the policy guiding the installation of new antenna towers to require companies to: • consult communities on all commercial tower installations, regardless of height; • build the tower within three years of consulting with communities; and • ensure that residents are well-informed of upcoming consultations. Industry Canada's objective is to allow local residents and municipalities to be informed about new commercial towers in their communities. However, municipalities and proponents may feel increased administrative burden if these proponents must consult on all towers. The proposed antenna siting procedures will provide municipalities and other land-use authorities with the latitude to exclude certain antenna systems from all, or part of, their consultation process or to have different public consultation processes tailored to different types of locations or structures.	March 2014: Trust Council requested staff to advise whether Trust Council actions are necessar to implement the new federal communication tower consultation process once the Industry Canada procedure is in effect.	Staff will continue to monitor. The final procedures will be posted to Industry Canada's Spectrum Management and Telecommunications website. May trigger RFD to Council to update / cancel Trust Council's protocol agreement with Industry Canada

DISCUSSION/ PLANNING/TFB RELATED ADVOCACY TOPICS	STATUS	SUMMARY	ISLANDS TRUST ACTIONS - PAST	ISLANDS TRUST ACTIONS - FUTURE
Proposed National Marine Conservation Area for the Southern Strait of Georgia (2003-14) (Provincial / Federal)	Federal government consulting with First Nations on proposed boundary	▪ Parks Canada in partnership with the Province of British Columbia is assessing the idea of creating a national marine conservation area (NMCA) in the Southern Strait of Georgia ▪ The Islands Trust has engaged in the stakeholder consultation process and continues to stay in touch with federal staff on the issue. ▪ In October 2011 Canada and BC announced proposed NMCA boundary for consultation. ▪ Local government consultation processes were re-activated in 2012. A preliminary consultation meeting with local government was held in Sidney on May 24, 2012 and was attended by Vice Chairs Ken Hancock and Peter Luckham and CAO Linda Adams. Subsequent meetings occurred on Aug. 29 and Oct. 26, 2012 and were attended by many of the trustees and planning staff for the affected islands. ▪ Islands Trust and Trust Fund Board representatives have also been involved in several meetings and open houses, in data-sharing exercises with Parks Canada and in meetings of an "NMCA Coalition" convened by the Canadian Parks and Wilderness Society and the Georgia Strait Alliance. ▪ First Nation consultation is still underway and NMCA staff do not advise detailed review of boundary areas by local governments at this time.	Dec. 2003 – Trust Council hosted a session on the NMCA by Parks Canada staff and requested the Chair write to Parks Canada recommending that the entire Islands Trust Area be included in the feasibility study. In 2010 Islands Trust submitted a successful resolution to UBCM regarding support for NMCA. EC raised the NMCA during Sept 2010 meeting with Minister Penner and during Jan 2011 meeting with Minister Coell. June 2012: Council received a briefing on implications of asking for broadening of study area. December 2012: Trust Council reaffirmed support for the NMCA with current perimeter, requested to be included in joint mgm't, and requested that LTC zoning be used as basis of NMCA zoning. Spring 2013: Affected LTCs received a briefing about the opportunity to comment on proposed NMCA exemption areas. March 2014: EC requested that staff provide a NMCA briefing update in August. Trustee George Grams and Regional Planning Manager Leah	Staff and trustees will continue to work with islanders and partner agencies during the consultation process to represent island interests and ecosystems to the decision makers about implications such as zoning, boundaries and buffers.

DISCUSSION/ PLANNING/TFB RELATED ADVOCACY TOPICS	STATUS	SUMMARY	ISLANDS TRUST ACTIONS - PAST	ISLANDS TRUST ACTIONS - FUTURE
			Hartley are on Parks Canada's National Marine Conservation Area consultation group Jennifer Eliason, Islands Trust Fund Manager and Kate Emmings, Ecosystem Specialist attend meetings of the Southern Strait of Georgia Marine Conservation Network	
BURNCO environmental assessment process update	Proponent submitted draft application Draft Application Information Requirements on September 9, 2013. Public comment period closed October 19, 2013.	BURNCO Rock Products Limited is proposing to construct and operate the BURNCO Aggregate Mine Project 35 kilometres northwest of Vancouver, British Columbia. The BURNCO Aggregate Mine Project is expected to produce 1.0 to 1.6 million tonnes of sand and gravel per year for export over a mine life of 20 years. Sand and gravel will be processed in a preparation plant on site and transported by barge to concrete plants in Burnaby and Port Kells, British Columbia. The project will include development of a marine barge loading facility at the mine site. The proponent estimates that more than 30 million tonnes of gravel and sand would be taken out and shipped by sea over 20 years. Current estimates suggest that initial extraction of the aggregate resource will be on the order of 400,000 tonnes per year, increasing to 1 to 1.6 million tonnes per annum within a few years for the duration of the resource, with possible production 'spikes' to 4 million tonnes per annum.	Aleksandra Brzozowski, Island Planner, is a member of environmental assessment office working group. October 2013 Chair letter to Environmental Assessment Office	Staff will continue to participate in working group. Staff will continue to monitor.

DISCUSSION/ PLANNING/TFB RELATED ADVOCACY TOPICS	STATUS	SUMMARY	ISLANDS TRUST ACTIONS - PAST	ISLANDS TRUST ACTIONS - FUTURE
Standing Senate Committee on Fisheries and Oceans study of Study on the regulation of aquaculture, current challenges and future prospects for the industry in Canada	Meetings held January 28, 2014 and are ongoing	The Standing Senate Committee on Fisheries and Oceans began its study on the regulation of aquaculture, current challenges and future prospects for the industry in Canada on January 28, 2014. The committee has been hearing from participants in the aquaculture industry including industry associations, First Nations and researchers, as well as other individuals or groups representing a variety of views on aquaculture. The committee has been receiving general information on aquaculture and is focusing on themes such as: farming activities for finfish and shellfish; various types of farming sites, such as open-net and closed-containment aquaculture, as well as integrated multi-trophic aquaculture; environmental considerations; the supply chain from hatcheries to processing plants; certification and marketing; research; and First Nations perspectives. More information about the committee is at: www.senate-senat.ca/pofo.asp. The study will inform the committee's recommendations to the federal government which could include a recommendation for a new national Aquaculture Act (this has not been stated explicitly).	Clare Frater, Policy Advisor, observed March 26, 2014 hearing in Nanaimo.	Staff will continue to monitor.
National Conservation Plan	Announced May 15, 2014	The National Conservation Plan includes funding of $252 million over 5 years, including $100 million for the Nature Conservancy of Canada to protect land. The other funding will be allocated as follows: • "$37 million to "strengthen marine and coastal conservation" • $3.2 million to develop an inventory of conserved lands • $50 million to restore wetlands • $50 million to restore and conserve species and habitats • $3 million to the Earth Rangers to "expand family-oriented conservation programming"	None.	Staff to monitor.

ISLANDS TRUST REQUESTS TO THE PROVINCE OF BC FOR CHANGES TO ISLANDS TRUST LEGISLATION / REGULATION

ISLANDS TRUST COUNCIL REQUEST	WHEN	METHOD	RESPONSE
1. **Amendments to the *Islands Trust Act* that would cause four local trustees to be elected to sit on the Salt Spring Island Local Trust Committee.**	July 20, 2007	Letter to Hon. Ida Chong, Minister of Community Services	May 2008 Minister Chong suggested Islands Trust hold a referendum. Turned down by Salt Spring Island LTA referendum November 15, 2008.
2. Amendments to the *Islands Trust Act* that would cause four local trustees from the Salt Spring Island Local Trust Area to sit as full voting members of the Islands Trust Council.	July 20, 2007	Letter to Hon. Ida Chong, Minister of Community Services	In a May 23, 2008 letter the Minister advised that she agreed with the Islands Trust Governance Review consultant's recommendations and found the rationale for increasing the size of the Islands Trust Council (ITC) by adding the two additional Salt Spring Island Trustees is "less" compelling than the request to increase the size of the Salt Spring Island Local Trust Committee.
3. Changes to the *Islands Trust Act* that would enable the Islands Trust Council to determine the size of its Executive Committee.	July 20, 2007	Letter to Hon. Ida Chong, Minister of Community Services	Never formally turned down
	June 2011	Raised during a meeting with the Hon. Ida Chong, Minister of Community Services	
4. The necessary changes to provincial / legislation and regulations to permit Islands Trust bodies to hold meetings through electronic or other communication facilities.	July 20, 2007	Letter to Hon. Ida Chong, Minister of Community Services	Achieved in 2009
5. Changes to provincial/legislation and regulations be made, if necessary, to confirm that Islands Trust bodies may perform their duties and functions while outside of the Islands Trust Area.	July 20, 2007	Letter to Hon. Ida Chong, Minister of Community Services	Later turned out to be a non-issue
6. Natural Area Protection Tax Exemption Program (NAPTEP) – extension to Bowen Island Municipality	October 27, 2009	Meeting with Hon. Bill Bennett, Minister of Community and Rural Development	Achieved June 2010

ISLANDS TRUST COUNCIL REQUEST	WHEN	METHOD	RESPONSE
7. Electronic meetings	October 27, 2009	Meeting with Hon. Bill Bennett, Minister of Community and Rural Development	Achieved in 2009
8. Bylaw dispute adjudication system	October 27, 2009	Meeting with Hon. Bill Bennett, Minister of Community and Rural Development	Achieved in 2011
9. Trust Fund Board corporate status and name change	November 20, 2012	Letter to Hon. Bill Bennett, Minister of Community, Sport and Cultural Development	Response received Feb 2013. Minister Bennett stated that changing the corporate structure of the Trust Fund Board has broad implications that require careful consideration. He further noted that government often requires a compelling reason, such as a legislative barrier to operations, prior to considering such a legislative request. He suggested that Islands Trust staff contact that Islands Trust an Assistant Deputy Minister to arrange for further evaluation of the proposal.
	June 2011	Name change raised during a meeting with the Hon. Ida Chong, Minister of Community Services	Advised by Minister to explore other solutions first to determine if can resolve challenges in other ways. Trust Fund Board has asked Trust Council Chair to seek this change in writing.
	After June 2011	Staff met with Ministry staff	
	2014	Executive Committee to seek meeting with Minister Coralee Oakes	

REQUESTS BY AN ISLANDS TRUST BODY FOR CHANGES TO LEGISLATION / REGULATION

REQUEST	WHEN	METHOD	RESPONSE
Change to the *Private Managed Forest Land Act* to exempt Galiano Island Local Trust Committee from Section 21 of the PMFL Act	April 27, 2010	Letter from Galiano LTC Chair to Dale Wall, Deputy Minister, Ministry of Community and Rural Development	In 2010, Dale Wall met with Islands Trust Chief Administrative Officer and the Island Planner for Galiano Island LTC to discuss alternative legislative amendments that would enable the Galiano LTC to adopt an Official Community Plan with policies that restrict forest activities. Staff at the Ministry of Forests, Lands and Natural Resource Operations have considered options for legislative amendments but these options have not been made public.
Regulation that would reserve the Islands Trust Area from the staking of mining claims and exploration under the *Mineral Tenure Act*.	January 30, 2013	Letter from Islands Trust Chair to the Hon. Rich Coleman, Minister of Energy, Mines and Natural Gas	Minister Coleman responded on March 14, 2013 by saying that the Chief Gold Commissioner is considering a number of options to address concerns raised by Pender Island residents and the Islands Trust, including the possible use of mineral reserves for Pender Island and the Islands Trust area.

BRIEFING

To: **Islands Trust Council** **For the Meeting of:** June 18-19, 2014

From: Lisa Gordon, Director, Trust Area Services **Date:** May 7, 2014

SUBJECT: **ISLANDS TRUST COMMUNITY STEWARDSHIP AWARDS 2014**

DESCRIPTION OF ISSUE:

At a June 19, 2014 closed session, Islands Trust Council will decide the recipients of the 2014 Community Stewardship Awards program.

BACKGROUND:

This program provides an opportunity to promote the Islands Trust Object by celebrating the community service and environmental stewardship efforts of island residents.

The Community Stewardship Awards program is intended to provide recognition to individuals or organizations for programs or actions that have made a significant contribution towards the Object of the Islands Trust. The awards program requires two full time equivalent weeks of management and support staff time in program communications and administration. The annual cost of the program is $500.00 for awards from the Trust Programs budget.

The 2014 program was administered as follows:

- Members of the public and other agencies were invited to nominate individuals or organizations for recognition. The program was publicized through a news release, on-line information, posters, and, ‘tweets’.

- The deadline for award nominations was April 16, 2014.

- The Trust Programs Committee considered all of the nominations in May to develop recommendations to Council. Trust Programs Committee evaluated nominations based on the following criteria: relationship of the project or work to the Islands Trust Policy Statement, benefits to the community or Trust Area, collaboration with others, innovation, and the level of community support and involvement.

- The names of nominees were released to the media and the Islands Trust Chair sent all nominees a congratulatory letter and a certificate of nomination.

Trust Council's policy 2.1.xi *Administration of Community Stewardship Award Program* states that:

- the Trust Programs Committee will make recommendations to Trust Council for up to two awards in each of the individual and organizational categories, and for up to two additional awards in those or other categories.
- Trust Council will review the Trust Programs Committee recommendations and decide upon the award recipients;

Trust Council will decide on the recipients in a closed meeting on June 19, 2014 and announce the results in the 'decision and information items' section of the meeting.

FOLLOW-UP:

Community stewardship awards consist of an engraved plaque or other small memento. In past years, staff have attempted to keep the total cost of all awards below $600.00. In March 2014 the Islands Trust Council amended the Purchasing Procedure (6.5.iii) which states in section 13 "*Islands Trust staff engaged in procuring Community Stewardship Awards, or other awards that from time to time may be required, will ensure that awards represent the unique nature of the Islands Trust Area and, where practical, are constituted from products distinct to the Islands Trust Area*". In the next few months staff will be assessing local purchasing options and associated costs.

Awards will be presented at local trust committee meetings in the fall of 2014. Should an award be made for Bowen Island, the municipal trustees may determine the method of making the award. Where an award recipient has done work in more than one local trust area, trustees will need to discuss and decide which local trust committee will present the award. The names of award recipients will be publicized through a news release. Detailed information will be made available on the Islands Trust website, with links e-mailed to subscribers.

ATTACHMENT(S):

1) 2002-2014 Overview - Community Stewardship Awards
2) List of nominees for 2014 Community Stewardship Awards
3) Evaluation form
4) Profiles of nominees for 2014 Community Stewardship Awards

Prepared By: Clare Frater, Policy Advisor

Reviewed By/Date: Lisa Gordon, Director, Trust Area Services, May16, 2014
Executive Committee, June 3, 2014



Chief Administrative Officer

Community Stewardship Award Program
2002-2014 Overview

Nominations per Island 2002 – 2013:
Since 2002, there have been 160 nominations in total, with an average of 13 nominations per year. The highest number of nominations (18) occurred in 2012 and the lowest number of nominations (6) occurred in 2011.

	2002-2013	2014-Indiv.	2014-Group	**Total 2002-2014**
Pender	41	3		**41**
Salt Spring	28	1		**28**
Hornby	18			**18**
Mayne	10			**10**
Denman	11		1	**11**
Saturna	9	1		**9**
Galiano	8		1	**8**
Lasqueti	7			**7**
Gabriola	7			**7**
Bowen	6			**6**
Thetis	4			**4**
Gambier	2			**2**
Trust Wide	2			**2**
Total	**153**	**5**	**2**	**160**

Recipients per Island 2002 – 2013:
Since 2002, there have been 63 Community Stewardship Awards recipients in total. The number of awards has ranged from three awards in 2002 to six awards in 2007, 2008, 2011 and 2013 to eight awards in 2012. In 2005, Trust Council awarded four awards and two honourable mentions.

	Total 2002-2013
Salt Spring	**15**
Pender	**12**
Hornby	**6**
Denman	**5**
Saturna	**5**
Bowen	**4**
Mayne	**4**
Gabriola	**3**
Galiano	**2**
Lasqueti	**3**
Gambier	**2**
Thetis	**1**
Trust Wide	**1**
Total	**63**

Summary
Community Stewardship Award Recipients

2013

Island	Recipient	Project	Award
Saturna	Richard Blagborne	For his role in saving and restoring the Fog Alarm building at East Point Park.	Individual
Gabriola	Chris and Judith Plant	For promoting and demonstrating sustainability through book publishing.	Individual
Salt Spring	Jan Slakov	For her environmental and social justice leadership.	Individual
Salt Spring	Salt Spring Island Water Council	For ten years of work on water issues on the island.	Group
Lasqueti	Lasqueti Island Forage Fish Team	For monitoring beaches for forage fish habitat.	Group
Mayne	Mayne Island Conservancy Society	For their shoreline care program.	Group
Denman	Ana Miriam Leigh (posthumous)	For her 20 years of support to women facing violence on Denman Island	Special enduring achievement

2012

Island	Recipient	Project	Award
Bowen	Dr. Donald Marshall	For initiatives to reduce, reuse and recycle.	Enduring Achievement
Denman	Peter Karsten	For conservation programs and projects.	Climate Change
Gabriola	Gabriola Island Health Care Foundation, Society and Auxiliary	For building the Gabriola Island Urgent Care Medical Clinic	Group
Gambier	Stuart Watson	For his work with the Gambier Fire Equipment Group and Langdale Access Group	Individual
Hornby	Hornby Quilters Group	For 36 years of fundraising	Group
North Pender	Margot Venton	For working to protect the Southern Resident Killer Whale	Individual
Saturna	Saturna Ecological Education Centre	For building an Ecological School	Group
Salt Spring	Anne Macey	For supporting agriculture and food security	Individual

2011

Island	Recipient	Project	Award
Bowen	Sue Ellen Fast	For her community and conservation work	Individual
Hornby	Hornby New Clinic Committee	For planning, coordinating and building a new community medical clinic	Group

North and South Pender	Pender Island Fire Rescue Department	For serving and protecting the Pender Islands.	Group
Galiano	Jane Wolverton	For her work with the Galiano Food Program	Individual
North and South Pender	Barry Mathias	Car Stops Program	Climate Change
North and South Pender	Sara Steil	For her community and conservation work	Enduring Achievement

2010

Island	Recipient	Project	Award
Denman	Patti Willis	For preservation of the Denman Island environment.	Individual
North Pender	Tekla Deverell	For her gardening mentorship program for young people	Individual
North Pender	Sylvia Pincott	For preservation of the Pender Island environment	Enduring achievement
Salt Spring	Dorothy Cutting	For the West Coast Climate Equity website and her climate change education work	Climate change
Saturna	Jon Guy	For his many contributions to the vitality of Saturna Island's community life	Enduring achievement

2009

Island	Recipient	Project	Award
Denman	Patricia McLaughlin	For her work on marine stewardship.	Individual
Hornby	Hornby Island Residents and Ratepayers' Association	For its efforts to mitigate our impacts on the climate by developing a non-motorized trails network on Hornby Island.	Group
Salt Spring	Salt Spring Island Conservancy	For its "Stewards in Training" schools program	Group
Salt Spring	Kelsey Mech	For her work in developing Environmental Action Day and an environmental action youth group	Individual
Salt Spring	Jacqueline Booth (Posthumous nomination)	For her work on terrestrial and marine ecosystem mapping and conservation.	Individual

2008

Island	Recipient	Project	Award
Lasqueti	Lasqueti Island Nature Conservancy	For its work in expanding Squitty Bay Provincial Park from 13 to over 51 hectares	Group
Saturna	Lyall Creek Salmon and Trout Enhancement Project	For their work to restore Lyall Creek's salmon and trout habitat	Group
Mayne	Mary Cooper	For her work with the	Individual

		Mayne Island Integrated Water Systems Society to conserve water	
Salt Spring	Maureen Moore	For her work to save Salt Spring Island's Creekside Rainforest	Individual
Saturna	Geri Crooks	For her work to stabilize the future of emergency medical responses on Saturna	Enduring Achievement
Lasqueti	Alisdair and Nancy Gordon	For their donation of Mount Trematon to the Trust Fund Board, to be protected for the community in perpetuity	Special Contribution

2007

Island	Recipient	Project	Award
Gambier	Gambier Island Conservancy	For its fund-raising to acquire and protect Mount Artaban as a nature reserve.	Group
Salt Spring	Salt Spring Island Alternative Gypsy Moth Control Program	For implementing an ecologically-friendly program to control the outbreak of gypsy moths.	Group
Gabriola	Jenny Brown McLeod	For her work on groundwater management and protection on Gabriola Island.	Individual
North Pender	Karl Hamson	For his community service and commitment to sustainability.	Individual
North Pender	Ursula Poepel	For her work in removing invasive plants on the island since 1986 and her donation of land to the Pender Island Parks Commission.	Special Enduring Achievement
North & South Pender	The Pender Post, a non-profit publication established in 1971	For its dedication to building the Pender Islands community	Special Enduring Achievement

2006

Island	Recipient	Project	Award
Pender	Michelle Marsden and the BC Coastal Clean Up Campaign	For the removal of marine wrecks and beach cleanup.	Group
Salt Spring	Salt Spring Island Conservancy	Mount Erskine Campaign to create Mount Erskine Provincial Park.	Group
Thetis	Bob Burgess, Gulf Islands Rainwater Connection Ltd.	For his work on rain water harvesting.	Individual

Mayne	Ann Johnston	For her work on recycling on Mayne Island.	Individual

2005

Island	Recipient	Project	Award
Hornby	The Hornby Water Stewardship Project	For their work on water testing and public education to protect water quality.	Group
Mayne	Mayne Island Japanese Gardens	For creating a memorial garden to honour the Japanese families of Mayne Island.	Group
Hornby	Hilary Brown	For her ongoing work of almost seven decades to make Hornby Island a better place to live.	Individual
Bowen	Katherine Dunster	For her conservation work and promotion of the 'slow islands' movement.	Individual

2005 Honourable Mentions

Denman	Denman Conservancy Association	For their annual house and garden tour fund-raising event.	Special Honourable Mention
Pender	Nicholas and Naomi Wilde-Van Ginkles of Pender	For their work to sensitize the community to the environmental impact of chemicals.	Special Honourable Mention

2004

Island	Recipient	Project	Award
Salt Spring	Spring Island Stream and Salmon Enhancement Society	For their watershed and stream restoration work, primarily on Salt Spring Island.	Group
Salt Spring	Salt Spring Island Residents For Responsible Land Use	For their work in the preservation of Walker Hook.	Group
Galiano	Ken Millard	For his ongoing work as the Director of the Galiano Conservancy.	Individual
Salt Spring	Tom Gossett	For many years of work for watershed protection.	Individual

2003

Island	Recipient	Project	Award
Bowen	Bowen Island Forest and Water Management Society	For compiling a vast range of community information onto a single CD Rom.	Group
All Islands	Islands in the Salish Sea	For gathering diverse	Group

	Mapping Project	community knowledge and communicating it through artistic maps.	
Denman	Jenny Balke	For restoration work in Valens Brook and enhancing community awareness about the need to preserve environmentally sensitive areas.	Individual
Hornby	Tony Quin	For his work in preserving the 170 hectare Link-Parsons property as a park.	Individual

2002

Island	Recipient	Project	Award
North Pender	Trincomali Improvement District	For providing and maintaining a secure water supply to the Trincomali subdivision and educating new property owners about the restrictions on water use.	Group
Salt Spring	Island Wildlife Natural Care Centre	For their naturopathic approach to the care and rehabilitation of wildlife.	Group
Salt Spring	Maureen Milburn	For her work in negotiating the Maxwell Lake conservation covenant.	Individual

COMMUNITY STEWARDSHIP AWARDS 2014
SUMMARY OF NOMINEES AND PROJECTS

- Islanders nominated a total of 3 individuals, 2 couples and 2 groups for the 2014 Islands Trust Community Stewardship Awards Program.

Individuals

Nominee	Island	Title of Project/ Description of Work	Nominator	Previously Nominated?
1. Barrie Morrsion and Nancy Waxler-Morrison	Pender	Ecological legacy for the Pender Islands	Pender Island Trust Protection Society	No
2. Christa Grace-Warrick	Pender	25 years of promoting community connection through newspaper publishing	Pender Island Trust Protection Society	Yes (2005)
3. Paul and Monica Petrie	Pender	Fundraising to complete the Brooks Point Regional Park	John Chapman	Yes (2012)
4. Brian Hollingshead	Saturna	Championing coastal ferry services	Susan Jamieson-McLarnon	No
5. David Denning	Salt Spring	Inspiring people about Salt Spring Island's natural world	Salt Spring Island Conservancy	No

Groups

Nominee	Island	Title of Project/ Description of Work	Nominator	Previously Nominated?
1. Assoc. of Denman Island Marine Stewards	Denman	Protecting the marine environment over a 15-year period.	Graeme Johnston	No
2. Galiano Conservancy Association	Galiano	25 years of leadership in sustainable community building.	Carolyn Canfield	No

COMMUNITY STEWARDSHIP AWARDS – EVALUATION FORM 2014

INDIVIDUAL EVALUATIONS:

Individuals	Relationship to Policy Statement (1-5)	Benefits to the Community or Trust Area (1-5)	Collabo-ration with others (1-5)	Innovation (1-5)	Level of community support and involvement (1-5)	TOTAL SCORE
1. Barrie Morrison and Nancy Waxler-Morrison (post-humous)						
2. Christa Grace-Warrick						
3. Paul and Monica Petrie						
4. Brian Hollingshead						
5. David Denning						

COMMUNITY STEWARDSHIP AWARDS – EVALUATION FORM 2014

GROUP EVALUATIONS:

Groups	Relationship to Policy Statement (1-5)	Benefits to the Community or Trust Area (1-5)	Collabo-ration with others (1-5)	Innovation (1-5)	Level of community support and involvement (1-5)	TOTAL SCORE
6. Assoc. of Denman Island Marine Stewards						
7. Galiano Conservancy Association						

Sustaining the Islands – Community Stewardship Awards Program

2014 Nominee Profile

Barrie Morrison and Nancy Waxler-Morrison
North Pender Island
(Posthumous)

Category: Individual

Project: Ecological legacy for the Pender Islands

Nominator(s): Pender Islands Trust Protection Society

Letters of Support: N/A

Project Description:

Barrie Morrison and Nancy Waxler-Morrison were involved in a wide range of works to preserve and restore ecosystems on the Pender Islands. They were founding members of the Pender Islands Trust Protection Society and were members of the Pender Island Conservancy Association. Barrie Morrison was a director in each organization and served a term as chair of the Pender Island Conservancy Association.

The couple placed a covenant on their own property, the Cottonwood Creek Covenant. In Nancy's memory, Barry established the Morrison Waxler Biodiversity Protection Legacy Fund to assist other private landowners on North and South Pender Islands to offset the cost of registering a conservation covenant on their land. To date, the fund has assisted five property owners in establishing covenants to protect land including: Frog Song, Garry Oak, Nighthawk Hill, Steil's Forest and Woodwinds. By helping to preserve island properties in a more natural forested state, the fund will also have a mitigating effect on climate change. This fund continues to assist people in fulfilling their dreams of protecting land forever, in memory of both Barrie and Nancy.

Sustaining the Islands – Community Stewardship Awards Program

2014 Nominee Profile

Christa Grace-Warrick, Gulf Islands' Island Tides
Pender Islands

Category: Individual

Project: 25 years of promoting community connection through newspaper publishing

Nominator(s): Pender Islands Trust Protection Society

Letters of Support: Jan Slakov

Project Description:

Christa Grace-Warrick runs the Island Tides as a social enterprise, connecting people with common interests, and generating community debate on important issues. She founded the Island Tides newspaper in 1989 and has published it bi-weekly since then, paid for by voluntary subscriptions and advertising.

Christa's role includes selling ads (sometimes door-to-door), designing ads, editing millions of words, writing news stories, laying our more than 600 issues, negotiating with presses and Canada Post, solving software problems, driving delivery vehicles, stocking newspaper boxes, creating a searchable website, doing the book-keeping, organizing and recruiting content from hundreds of sources. All this Christa has continued to do since she "retired."

During the lifetime of the paper, the editorial policy has supported the Islands Trust mandate with hundreds of articles focused on conserving and protecting ecosystems. The Island Tides has also been publishing articles about climate change, its causes, ways to mitigate change and strategies to adapt to it since the Rio Earth summit in June 1992.

In addition to Patrick Brown, the Island Tides' most prolific contributor, there are many others who have contributed photos and articles – Christa Grace-Warrick has been a mentor to many.

Copies of the paper are delivered by Canada Post to 12,400 households on Denman, Galiano, Gabriola, Hornby, Lasqueti, North Pender, Mayne, South Pender, Saturna, Salt Spring, Thetis, Quadra, Cortes, Read and Texada Islands free of charge. In towns, on ferries and in ferry terminals it is available in newspaper boxes.

Sustaining the Islands – Community Stewardship Awards Program

2014 Nominee Profile

Paul and Monica Petrie, Pender Islands

Category: Individual

Project: Fundraising to complete the Brooks Point Regional Park

Nominator(s): John Chapman

Letters of Support: N/A

Project Description:

Because of the dedicated fundraising efforts of Paul and Monica Petrie, the Brooks Point Regional Park on South Pender Island is complete and protected from development.

Brooks Point Regional Park is a 4.81-hectare area of forests, wetlands, coastal grasslands, beaches and rocky cliffs on the southeast tip of South Pender Island. This ecologically rich habitat supports hundreds of species including several red and blue-listed protected and endangered species (112 species of birds, 21 vertebrates and cetaceans and 81 invertebrates).

Until late 2010 it consisted of two parcels zoned park but was separated by one parcel of private land. It was purchased by the Capital Regional District, which retained the option of subdividing the lot to recover some of the funds. Paul and Monica Petrie co-chaired the Brooks Point Completion committee to raise sufficient funds to enable the CRD to abandon the option of subdividing.

The Brooks Point subcommittee of Pender Island Conservancy Association raised over $300,000 over three years from North and South Pender Island residents, island businesses, visitors and partner organizations. They inspired many Pender residents to hold a dance, an auction, a dinner, bocce tournaments, a golf tournament and many other fundraising activities.

Sustaining the Islands – Community Stewardship Awards Program

2014 Nominee Profile

Brian Hollingshead, Saturna Island

Category: Individual

Project: Championing coastal ferry services

Nominator(s): Susan Jamieson-McLarnon

Letters of Support: N/A

Project Description:

For 15 years, Brian Hollingshead has voluntarily gathered, analyzed and shared information about BC Ferries to support the ferry advisory committees and other agencies. As co-chair (with Tony Law of Denman Hornby Ferry Advisory Committee) of the Ferry Advisory committee Chairs group, Brian provides information about BC Ferries' scheduling, finances and operations information to ferry-dependent communities. He also coordinates the coastal communities' response to the actions of BC Ferries and the provincial government.

Brian's leadership qualities include creativity, expertise, professionalism, analysis and collaboration. Having all of those attributes wrapped into one person dedicated to protecting our basic transportation link is a rarity – that rare citizen is Brian Hollingshead.

Without his thousands of hours of volunteer service in this area, ferry service for island residents, businesses and community organizations would be much poorer. Brian Hollingshead's leadership legacy will last for decades.

Sustaining the Islands – Community Stewardship Awards Program

2014 Nominee Profile

David Denning, Salt Spring Island

Category: Individual

Project: **Inspiring people about Salt Spring Island's natural world**

Nominator(s): Jean Gelwicks, Salt Spring Island Conservancy

Letters of Support: Farley Cannon, Briony Penn, George Ehring, Nora Layard, Paul Burke

Project Description:

Since coming to Salt Spring Island over 20 years ago, David Denning has been educating and inspiring the community about the wonders of the natural environment in many volunteer roles. With a Masters Degree in Science Education, his life work has been developing films, videos, and multimedia programs to inspire understanding and protection of the natural world. On Salt Spring Island, he has focused on protecting, enhancing and restoring the natural environment, especially the marine environment.

David is committed to equipping everyone, especially young people, with the knowledge, skills and attitudes needed to be good stewards of nature. His interpretive seashore walks are island-famous, promoting a sense of awe and wonder. An entire generation of Salt Spring Islanders sees a shoreline differently because of his work.

Recently, David designed and co-organized the very successful Transition Renewable Energy Conference and designed and wrote the Conservancy's Stewards in Training Nature Calendar, which highlights for local children what is happening with nature every month. He has been involved in many Conservancy projects including a key role in the Living with Nature Guide for newcomers that shows how to live with nature and limit one's ecological footprint. Through his extensive contacts in the BC naturalist community and through his enthusiasm, he has helped the Conservancy Education Committee bring over 100 naturalist speakers to island audiences.

David frequently teaches in all the school marine programs, serves on the conservancy scholarship committee and is a member of the Climate Action Council. A founding member of the Transition SS Community Energy Group, he is co-developer of the innovative GISS Solar Scholarship Project for renewable energy education. He is also currently working on a shoreline survey for Salt Spring Island.

Sustaining the Islands – Community Stewardship Awards Program

2014 Nominee Profile

Association of Denman Island Marine Stewards

Category: Group

Project: Protecting the marine environment over a 15-year period

Nominator(s): Graeme Johnston

Letters of Support: N/A

Project Description:

The 200-member Association of Denman Island Marine Stewards is dedicated to protecting and raising awareness of the marine environment through education and hands-on community events, such as an annual beach clean-up. The clean-ups have removed over 20 tons of derelict equipment, plastics and other materials from public shorelines. The association has made more than 300 written submissions about marine-related issues and helped create a forage fish data base. The group has toured most of the islands in the Islands Trust Area making presentations about threats to the marine environment and participates in marine-related events and workshops. The association also meets with federal, provincial and local governments, scientists, biologists and the aquaculture industry to raise awareness of marine issues.

Sustaining the Islands – Community Stewardship Awards Program

2014 Nominee Profile

Galiano Conservancy Association

Category: Group

Project: 25 years of leadership in sustainable community building

Nominator(s): Carolyn Canfield

Letters of Support: N/A

Project Description:

The Galiano Conservancy Association's legacy includes protecting hundreds of hectares of land, supporting community-based conservation land trusts in the Salish Sea and across Canada and advocating for the Southern Strait of Georgia Marine Protected Area. Another long-term contribution is a decade-long biodiversity baseline inventory for detecting and evaluating change using UNESCO's Smithsonian Institution/Man and Biosphere Forest Monitoring protocol. A lasting gift to conservation biology is the association's careful management of its second growth Douglas-fir plantation to demonstrate a community's capacity for scientific best practices in forest ecosystem restoration.

The conservancy has been instrumental in creating innovative models for community-based sustainability. Its programs build pride in the natural and human heritage that attracts visitors and new residents, builds skills by employing young people and builds community by sponsoring multiple local events. The conservancy also offers the 'How Well is Your Well?' program with consultation on interpreting potable water testing to help people learn about and conserve groundwater.

Finally, the conservancy has collaborated with schools and community groups from adjacent islands, the Lower Mainland and Vancouver Island to engage hundreds of leaders and thousands of youth in learning about the unique natural environment of the Salish Sea.

ISLANDS TRUST FUND

BRIEFING

To: Trust Council **For the Meeting of:** June 18-19, 2014

From: Trust Fund Board **Date prepared:** June 4, 2014

SUBJECT: COASTAL DOUGLAS-FIR AND ASSOCIATED ECOSYSTEMS CONSERVATION PARTNERSHIP (CDFCP)

DESCRIPTION OF ISSUE:

The Province of BC is divided into 16 biogeoclimatic zones; of these the Coast Douglas-fir Biogeoclimatic zone (CDF Zone) is the smallest and most at-risk zone. The CDF Zone is also home to a high number of species and ecosystems at risk in BC, many of which are globally imperiled.

Current research is beginning to show the importance of the Islands Trust Area to conservation in the CDF Zone. Over 25% of CDF Zone and some of the best examples of the CDF Zone's ecological communities are located in the Islands Trust Area. The analysis of ecological communities done to date by BC's Ministry of Environment show that the CDF ecosystems with the highest ecological integrity are found in the Islands Trust Area. A recent study commissioned by the Trust Fund Board indicates that some of the best biological diversity in the CDF Zone is found in the Islands Trust area. Additionally, the forests of the CDF Zone found in the Islands Trust area have higher carbon storage and carbon sequestration potential compared with those found outside the Islands Trust area.

The Coastal Douglas-fir and Associated Ecosystems Conservation Partnership (CDFCP) has received funding from the Real Estate Foundation of British Columbia to combine and integrate existing data sources to create a landscape level plan that will highlight high priority lands for conservation and improved Crown and private land stewardship, focusing initially on uses for local and regional government planning. This landscape level plan will provide concrete action items/guidelines for local governments and other interested parties, such as model bylaws and amendments to Official Community that highlight stewardship of the CDF Zone. The plan will include the entire Islands Trust Area and the CDFCP is requesting collaboration and support from the Islands Trust for the initiative. The nature of the support could include an assessment of how the local planning tools currently used by the Islands Trust could be better utilized to improve protection of Coastal Douglas-fir ecosystems.

BACKGROUND:

At its March 2013 meeting Trust Council signed on to the Coastal Douglas-fir and Associated Ecosystems Conservation Partnership (CDFCP) Statement of Cooperation and agreed, in a letter from Chair Malcolmson, to work with the CDFCP as follows:

> *In our efforts to work closely together for the future of the Coastal Douglas-fir and Associated Ecosystems (CDFAE), we will build on the conservation activities and working relationships that have already been established in the area. Many programs and initiatives have protected portions of the landscape, implemented successful*

stewardship projects, created conservation plans, produced research results, and produced an array of informative publications. We intend to work together to facilitate practical and effective conservation of the CDFAE.

Coastal Douglas-fir Biogeoclimatic Zone (CDF Zone)

The CDF Zone covers approximately 0.25% of British Columbia (Approximately 256,100 ha) and has the highest density of species of conservation concern of any of the biogeoclimatic zones in BC. It is characterized by Coastal Douglas-fir trees which can live to be 1000 years and grow to be 90 metres tall. However, it is the species associations within the CDF Zone that make it so important: 34 of the ecological communities are considered provincially endangered or threatened and 18 are considered globally imperiled or critically imperiled. There are over 275 species at risk in the CDF Zone, of which 107 are listed by COSEWIC and 99 are listed under the federal Species at Risk Act.

"The global range of the CDF lies almost entirely within BC, underscoring both its global uniqueness and BC's responsibility for its conservation. Of all the zones in BC, the CDF has been most altered by human activities. Less than 1% of the CDF remains in old growth forests and 49% of the land base has been permanently converted by human activities. The trend of deforestation and urbanization continues and has resulted in a natural area that is now highly fragmented with continuing threats to remaining natural systems. Approximately 9% of the CDF zone is protected in conservation areas. The extent of disturbance combined with the low level of protection places the ecological integrity of the CDF zone at high risk". (Coastal Douglas-fir and Associated Ecosystems Conservation Partnership Terms of Reference)

Coastal Douglas-fir and Associated Ecosystems Conservation Partnership (CDFCP)

In 2008, the Forest Practices Board received complaints about logging of endangered plant communities in the CDF Zone. One of the outcomes of the complaint process was a series of workshops to begin to address conservation in the CDF Zone. These workshops identified the importance of including Coastal Western Hemlock Eastern Very Dry Maritime (CWHxm1) variant in conservation strategies for the CDF Zone [1] and out of the workshops the idea of a conservation partnership was formed. Since then, over 35 organizations have joined the CDFCP, including regional and local governments (e.g. the Cowichan Valley, Nanaimo and Sunshine Coast Regional Districts and the Islands Trust). The membership also includes several Environmental Non-Governmental Organizations (ENGOs), including the Nature Conservancy of Canada, the Nature Trust of BC and many of the island conservancy organizations, the Ministry of Environment, the Ministry of Forest, Land and Natural Resource Operations, foresters and woodlot owners. Late in 2012, a Steering Committee was formed to begin work on tasks identified in the CDFCP Terms of Reference. Further information about the CDFCP is available at www.cdfcp.ca.

To date, funding has been the biggest hurdle in the timely delivery of tasks identified in the CDFCP Terms of Reference. The CDFCP recently secured funding for a landscape level plan that will highlight high priority lands for conservation and improved Crown and private land stewardship through the Real Estate Foundation of British Columbia and is a final contender for additional funding through the North Pacific Landscape Conservation Cooperative (a cross-border initiative based in the U.S.). With this funding, the CDFCP hopes to secure coordination support and complete a landscape plan for the Coastal Douglas-fir Zone. As part of the landscape plan, the CDFCP will work with interested local governments to create strategies that are relevant for use in OCPs and LUBs. Securing ongoing funding to support the Partnership will continue to be a major focus of the steering committee.

[1] The CWHxm1 was considered valuable because of its similarities to the CDF Zone and because the effects of climate change are anticipated to facilitate movement of boundaries between the two zones. CWHxm1 is present on Salt Spring Island, on Bowen Island and in the Gambier Island Local Trust Area.

Islands Trust and Islands Trust Fund Involvement

At its March 2013 meeting, Trust Council resolved to:

> *Endorse the Coastal Douglas-fir and Associated Ecosystem Conservation Partnership (CDFCP) Terms of Reference and Statement of Cooperation and direct the Chair to sign the Statement of Cooperation on behalf of the Islands Trust.*

As follow-up to the Trust Council resolution, the "CDF Zone Conservation Strategy" was identified by the Executive Committee as a topic for the 2011-2015 Continuous Learning Plan and an Information Session was scheduled for the June 2014 Trust Council meeting.

In 2013, the Trust Fund Board also endorsed the CDFCP Terms of Reference and Statement of Cooperation and signed the Statement of Cooperation and approved the participation of Ecosystem Protection Specialist, Kate Emmings, on the CDFCP Steering Committee.

Trust Council may wish to consider expanding its involvement in the CDFCP by directing staff to work with the CDFCP on the development of the landscape plan, developing specific recommendations that could be implemented by local trust committees.

ATTACHMENT(S):

Letter from the Chair, March 22, 2013 Endorsing the CDFCP
CDFCP Statement of Cooperation
CDFCP Terms of Reference

AVAILABLE OPTIONS:

Potential Trust Council actions include:

- That Islands Trust Council request that the Executive Committee consider sponsoring an Association of Vancouver Island Coastal Communities/ Union of British Columbia Municipalities resolution that calls on the Province to provide funding for the CDFCP and for land protection initiatives in the CDF Zone.
- That Islands Trust Council request that staff work with the CDFCP to develop recommendations for Trust Council's consideration regarding Local Trust Committees could use local planning tools to protect Coastal Douglas-fir ecosystems.

FOLLOW-UP:

Staff will follow up Trust Council directions as appropriate.

Prepared By: Jennifer Eliason, Islands Trust Fund Manager
Kate Emmings, Ecosystem Protection Specialist

Reviewed By/Date: Trust Fund Board – May 5, 2014
Directors of Local Planning and Trust Area Services – May 29, 2014
Executive Committee – June 3, 2014

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Chief Administrative Officer

Islands Trust

200-1627 Fort Street, Victoria BC V8R 1H8
Telephone **(250) 405-5151** Fax (250) 405-5155
Toll Free via Enquiry BC in Vancouver 604.660-2421. Elsewhere in BC **1.800.663.7867**
Email information@islandstrust.bc.ca
Web www.islandstrust.bc.ca

March 22, 2013 File No.: 5450-30; 0410-20

Via Email: Tim.Ennis@natureconservancy.ca

Tim Ennis, Chair
Coastal Douglas-fir and Associated Ecosystems Conservation Partnership Steering Committee

Dear Tim Ennis:

Re: Coastal Douglas-fir and Associated Ecosystems Conservation Partnership

As Chair of the Islands Trust Council, I'm writing to advise you that at its quarterly meeting in March 2013, the Islands Trust Council voted to endorse the Coastal Douglas-fir and Associated Ecosystem Conservation Partnership (CDFCP) Terms of Reference and Statement of Cooperation and directed me to sign the Statement of Cooperation on behalf of the Islands Trust.

The Islands Trust Council supports the CDFCP's goal of bringing governments, organizations and individuals together to collaboratively address ongoing threats to the conservation of Coastal Douglas-fir and Associated Ecosystems. This work would advance the following sections of the Islands Trust Policy Statement:

3.2.1 It is Trust Council's policy that

- *forest ecosystems in the Trust Area should be protected, and*
- *the remaining stands relatively undisturbed Coastal Douglas fir, Coastal Western Hemlock, Garry Oak and Arbutus should be preserved.*

3.2.3 Trust Council encourages government agencies, non-government organizations, property owners and occupiers to protect forested areas through voluntary donation, acquisition, conservation covenants and careful management.

We are hopeful that the CDFCP will promote shared stewardship and will identify conservation priorities, reduce duplication of effort, and result in shared resources and information.

We look forward to participating in the CDFCP and cooperating to protect the Coastal Douglas-fir biogeoclimatic zone; home to the highest number of species and ecosystems at risk in British Columbia.

Sincerely,

Sheila Malcolmson
Chair, Islands Trust Council

cc: Islands Trust Executive Committee
Bowen Island Municipality
Darryn McConkey, Senior Ecosystem Biologist, Min. of Forest, Lands and Natural Resource Operations
Islands Trust website

STATEMENT OF COOPERATION for the COASTAL DOUGLAS-FIR AND ASSOCIATED ECOSYSTEMS CONSERVATION PARTNERSHIP (CDFCP)

We believe that:

1) ***biodiversity is a key component of Canada's national heritage.***

Both Canada and British Columbia have made international and national commitments to conserve biological diversity. Biodiversity includes all species and ecological communities and the interactions between them and has both inherent and economic values that justify its conservation. We are committed to preserving this rich component of our national heritage for future generations.

2) ***the Coastal Douglas-fir Biogeoclimatic Zone is a unique and special place.***

The Coastal Douglas-fir biogeoclimatic zone (CDF zone) is unique and found almost exclusively in British Columbia. It is an area of extremely rich biological and ecological diversity and supports species and ecosystems that do not occur elsewhere in Canada. It has international significance because of its limited range in North America. This zone is also home to an increasing number of people drawn by the quality of life and the mildest climate in Canada. This area supports a wide range of agricultural, forestry, mining, recreation and tourism activities.

3) ***the future integrity of the Coastal Douglas-fir and Associated Ecosystems is threatened.***

We will not take the future health of the Coastal Douglas-fir and Associated Ecosystems (CDFAE) for granted. Although the area's economic wealth has long been based on its abundant natural resources, population growth and associated human activities now threaten the natural environment which has made it so special and attractive. There are 43 Red and Blue-listed ecological communities in the CDF zone alone and 278 species at risk, of which 107 are listed by COSEWIC and 99 are listed under the federal Species At Risk Act (SARA) (BC CDC, 2012)

4) ***it is not too late to secure the ecological integrity of the CDFAE for future generations.***

All the necessary elements of a Conservation Partnership are in place. Governments, non-government organizations, community groups and individuals are aware of the many conservation issues facing the CDFAE and recognize the need to preserve this special place. There is adequate scientific information to make informed decisions. We are strongly committed to cooperation and partnership for conservation of the CDFAE.

5) protecting this special place is our shared responsibility.

With this *Statement of Cooperation*, we are focusing the energies and efforts of an emerging Conservation Partnership so that we can make a coordinated contribution toward addressing the conservation issues facing the CDFAE. We wish to engage the considerable skills, energy and resources of our governments, ENGOs, community groups, educators, youth, workers, industry and business. We intend to work through cooperative mechanisms currently in place to inform and involve others. This will produce an open and transparent process of establishing priorities, identifying opportunities for effective cooperative action, and measuring progress. We will work with, and be guided by, existing conservation planning initiatives that affect conservation of the CDFAE.

6) the Aboriginal peoples of the Coast play a special role in the future of the natural system.

Through their long historical relationship with the lands and resources, the Aboriginal peoples of the CDFAE have acquired a special knowledge. To conserve and protect the area, we will work closely with the Aboriginal peoples of the CDFAE, so their unique perspective can contribute to our common efforts.

7) we will build on the progress made to date.

In our efforts to work closely together for the future of the CDFAE, we will build on the conservation activities and working relationships that have already been established in the area. Many programs and initiatives have protected portions of the landscape, implemented successful stewardship projects, created conservation plans, produced research results, and produced an array of informative publications.

We intend to *work together to facilitate practical and effective conservation of the CDFAE*

This *Statement of Cooperation* states our shared principles, goals and challenges. It provides a framework for collaboration on future initiatives through this Conservation Partnership, and will establish common priorities and a means to coordinate many of the initiatives already underway. We will be guided by our Terms of Reference, we will cooperate in an open and accountable manner, translate our commitments into actions, and monitor our progress. Research, monitoring and evaluation activities will provide new information and we are committed to considering and incorporating new information in our conservation approaches, priorities and management.

In working together towards the goals set out in this Statement of Cooperation, we welcome the ideas and efforts of all residents and organizations concerned about the future of the CDFCP. It is our intention to add new signatures to the Statement of Cooperation as new partners adopt the principles outlined in this document.

[Signature]	[Signature]	[Signature]
_____	_____	_____
Name	Name	Name
Position	Position	Position
Affiliation	Affiliation	Affiliation

Coastal Douglas-fir and Associated Ecosystems Conservation Partnership (CDFCP)
Terms of Reference

Background

The Coastal Douglas-fir biogeoclimatic zone (CDF zone) is the smallest and most at risk zone in BC and is of conservation concern (Biodiversity BC, 2008). The CDF zone is home to the highest number of species and ecosystems at risk in BC, many of which are ranked globally as imperiled or critically imperiled (BC CDC, 2012). The global range of the CDF lies almost entirely within BC, underscoring both its global uniqueness and BC's responsibility for its conservation. Of all the zones in BC, the CDF has been most altered by human activities. Less than 1% of the CDF remains in old growth forests (Madrone, 2008) and 49% of the land base has been permanently converted by human activities (Hectares BC, 2010). The trend of deforestation and urbanization continues and has resulted in a natural area that is now highly fragmented with continuing threats to remaining natural systems. Approximately 9% of the CDF zone is protected in conservation areas (MFLNRO, 2011). The extent of disturbance combined with the low level of protection places the ecological integrity of the CDF zone at high risk (Holt, 2007).

In response to complaints to the Forest Practices Board related to logging of endangered plant communities on Crown Land in the CDF zone, the province of BC released its CDF Conservation Strategy in 2008. Along with the protection of an additional 1600 ha of CDF under a Land Use Order and completion of terrestrial ecosystem mapping for 80% of the zone (excluding CDF in Lower Mainland), the strategy included a commitment to raise awareness and promote CDF stewardship to private land owners, local governments, and environmental non-government organizations (ENGOs). Since 2010 the province has hosted a series of workshops to both share information and solicit ideas on how to better address CDF conservation issues on a land base with a unique land ownership pattern where approximately 80% of the CDF zone is private land, 9% is provincial crown land and 11% is owned by other levels of government. A growing awareness of these issues has resulted in an increased interest in stewardship amongst the people, organizations and governments in the CDF zone.

One of the highest priority recommendations, from the feedback received at the workshops since 2010, relates to the need for a more strategic and collaborative approach amongst those working on CDF conservation issues to identify shared priorities, reduce duplication of effort and share resources and information. Another recommendation was to include the Coastal Western Hemlock Eastern Very Dry Maritime (CWHxm1) variant in the discussion because of the transitional area between the two biogeoclimatic units, the anticipated changes in boundaries due to the effects of climate change, and in many areas, similar levels of loss and fragmentation to that of the CDF. A key difference between the CWHxm1 and the CDF is that the CWHxm1 is much broader in range in BC and extends into the Pacific Northwest of the USA.

With these recommendations in mind, an ad hoc group of representatives from various levels of government, community residents, and ENGOs have met since the fall of 2011. At a workshop in March 2012 attended by a wide range of organizations, governments, resource professionals and private citizens, the concept of a partnership was widely endorsed. One of the action items from the workshop was to task a small group to develop a DRAFT Terms of Reference (TOR) to be presented back to the larger audience by June, 2012. The workshop participants requested that the TOR address options for the group's name, its mandate and its geographic scope. The

concept of the Coastal Douglas-fir and Associated Ecosystems Conservation Partnership (CDFCP) had been launched.

Purpose

The CDFCP is intended to be a forum for communication and collaboration regarding the maintenance and restoration of healthy Coastal Douglas-fir and Associated Ecosystems (CDFAE) (see map in Appendix A). The CDFCP recognizes the need for shared stewardship of CDFAE and will strive to focus resources collaboratively, strategically and transparently so as not to duplicate existing conservation efforts and to maximize conservation gains.

The CDFCP will strive to strategically address ongoing threats to CDFAE conservation due to growing human populations, development, and resource use through collaborative engagement of parties with the goal of raising awareness of conservation issues and promoting conservation objectives in a respectful manner.

The CDFCP will endeavour to support and explore synergies with its partners and will recognize existing conservation planning and initiatives and will endeavor to build upon, promote and support those initiatives whenever possible and incorporate existing plans into CDFCP outcomes. The Partnership will strive to not negatively impact a partner's ability to carry out their mandate.

The CDFCP recognizes the importance of basing decisions on the best available science and will provide an information sharing forum to disseminate information such as mapping resources and provide advice to support conservation initiatives occurring throughout the CDF and CWHxm1.

Conservation Partnership Composition, Roles and Responsibilities

Participants and Supporters:

The CDFCP will be an affiliation of a broad range of stakeholders who share a common focus on CDFAE conservation. It includes agencies and individuals that are interested in promoting and protecting healthy CDFAE into the future. Land trusts, government (federal, provincial, regional, local), environmental stewardship groups, resource industry professionals, First Nations, private landowners and academic institutions are encouraged to become CDFCP Participants or Supporters and are invited to participate in related working groups. Participants are affiliated with a government or organization whereas Supporters have no such affiliation.

Steering Committee:

The Steering Committee will consist of a maximum of 12 people, preferably with at least one, or possibly two, member from the various sectors listed in Table 1 who will serve as a working executive for the Conservation Partnership. The Steering Committee will be responsible for developing the overall approach of the Conservation Partnership and provide a forum for decision making which reflects the direction the Conservation Partnership chooses. The Steering Committee will be responsible for the day to day management of the Conservation Partnership as well as establishing Working Groups and will provide direction to them. Ideally, the Steering Committee will in part consist of Chairs and/or Co-Chairs of the various Working Groups. The Steering committee and the Conservation Partnership will

have no regulatory authority but will provide leadership, strategic guidance and assistance to partners through potential activities such as:

- Guiding development and implementation of plans and/or strategies
- Recommending priorities
- Engaging and providing advice to governments and local stakeholders
- Securing funding where required
- Providing and accessing specialized expertise
- Facilitating the collection and dissemination of data and information
- Facilitating public outreach and education
- Supervising and directing the CDFCP Coordinator

Table 1. Potential Composition of CDFCP Steering Committee (may be more than one representative per sector)

Name	Organization	Role
All TBD	Ministry of Environment	
	Ministry of Natural Resource Operations	
	Federal Government	
	Local Government	
	First Nation	
	ENGO	
	Resource Sector	
	Academia	
	Private Land Owner (member at large)	

See **Appendix B** (to be developed later) for contact information for each Steering Committee member.

CDFCP Coordinator:

The Conservation Partnership Coordinator will be responsible for:

- Coordinating meetings for the:
  - CDFCP Steering Committee
  - CDFCP Working Groups
- Coordinating communications materials with direction and input from the Steering Committee
- Acting as a flow-through for information dissemination to CDFCP Participants and Supporters
- Other activities outlined in the CDFCP Coordinator job description

The Conservation Partnership Coordinator will report directly to the Chair(s) of the Steering Committee.

Working Groups:

Working Groups which report to the Steering Committee will be established to complete specific priority activities laid out in subsequent plans and/or strategies. Working groups will select Chairs or Co-chairs who will be responsible for guiding the group to carry out identified priority tasks and report back to the Steering committee.

A number of possible Working Groups have been discussed. These will need to be refined and approved by the stakeholders of the Conservation Partnership and Steering Committee. They include:

a) Restoration and Stewardship group

The Restoration and Stewardship Working Group will focus on active restoration of CDFAE as well as promoting stewardship of CDFAE through existing organizations and information sharing between organizations.

b) Science/Technical

The Science/Technical Working Group (STWG) will provide advice and data to the Conservation Partnership, the Steering Committee and Working Groups, based on the best available science and mapping. Where the STWG does not have the appropriate level of expertise in-house for a particular subject, it will consult with appropriate experts.

c) Local Government

Due to the overlap of objectives, the Local Government Working Group (LGWG) may consist of the same membership as and be associated with regional implementation of the Species and Ecosystems At Risk Local Government Working Group (link: http://www.env.gov.bc.ca/wld/searl_gwg/) and will respect the recommendations and TOR that guide that group, while also meeting the recommendations and TOR of the CDFCP.

d) Resource Sector

The Resource Sector Working Group (RSWG) will be associated with natural resource extraction industries active in CDFAE. The RSWG recognizes economic activities exist within CDFAE and are an important part of local economies. The RSWG will engage others in the resource sector to:

- raise awareness of CDFAE conservation issues
- increase awareness of the impacts of resource extraction activities on CDFAE
- develop and promote best management practices to reduce impacts on CDFAE
- seek ways to increase the compatibility of resource activity outcomes with CDFAE conservation objectives
- explore and promote alternate economic opportunities that are more consistent with the CDFAE conservation objectives

e) Outreach and Education

The Outreach and Education Working Group (OEWG) is responsible for increasing awareness of CDFAE and CDFAE conservation issues as well as promoting CDFAE conservation objectives amongst all parties including the general public, all levels of government, CDFAE private landowners, First Nations and the Resource Sector

f) Securement

The Securement Working Group (SWG) will consist of land trust organizations who will collaborate on land securement priorities for CDFAE and methods for land securement including conservation covenants, land donations, eco-gifts, land acquisition, Crown Land securement and other voluntary conservation methods. Representatives of this Group will liaise with the Land Securement Subcommittee of the Conservation Partners of BC.

Geographic Scope

The Geographic Scope of the CDFCP includes the CDF and CWHxm1 biogeoclimatic zone/subzones, featured on the map in Appendix A.

Operating Policies and Procedures

Meetings

- Regular meetings of the Steering Committee at a minimum of every 3 months
- Meetings of the Conservation Partnership (open to the public) once a year
- Meeting procedures by consensus of CDFCP members
- Regular meeting dates established at start of the year
- Other meeting dates at the call of the Co-Chairs
- Members who are unable to attend can be represented by an alternate or can provide their written input prior to a meeting or join via teleconference
- Resource people or community representatives may be invited to attend specific meetings where their input would be of benefit

Decision-making

- Consensus model as much as possible
- If decision-making by consensus cannot be achieved, quorum for the decisions of the steering committee will be 50%+1 of active members
- Steering Committee members will be mindful and make best efforts to act in accordance with the following "Ground Rules"

"Ground Rules"

- Steering Committee members will:
  - come well prepared to discuss issues.
  - recognize concerns & interests of others, whether or not they agree with them.
  - share discussion time, encourage full participation and search for common understanding.
  - state their own views clearly, listen carefully to others, and explore issues fully before forming conclusions.
  - work in a spirit of collective problem solving.
  - communicate with respect and courtesy – no interrupting or side conversations.
  - strive to reach consensus.
  - support a decision, strategy or plan once it is adopted.

Communications outside Partnership

A spokesperson or spokespersons chosen by the Steering Committee may communicate on behalf of the CDFCP for the purposes of advancing a plan or strategy endorsed by the Conservation Partnership. In the absence of a plan or strategy, the spokesperson(s) may communicate on behalf of the CDFCP to provide support for conservation initiatives occurring within the CDFAE.

Participants can promote the Conservation Partnership but may not communicate on behalf of the Conservation Partnership without the approval of the Steering Committee. CDFCP participants will not use their participation in the CDFAE Conservation Partnership to advance their own interests without first consulting and receiving approval of the Steering Committee.

Funding

Funding will initially be secured through CDFCP participants. As the CDFCP matures, other funding models may be considered.
The Conservation Partnership will exist independently of operating and project funding. Where funds are sought, they will support the interests outlined in this Terms of Reference or will advance the goals and objectives of a CDFCP conservation plan or strategy. Where synergies exist, the Conservation Partnership will endeavour to seek funds that will also support its partners and wherever possible, fundraising for the CDFCP will be done in novel ways and efforts will be made to seek funds from sources not available to partner groups. Members of the CDFCP participate on a voluntary basis and are not financially compensated for their time by the partnership. Steering Committee members may be reimbursed for travel costs in order to attend the face-to-face meetings or workshops if funds are available.

Short Term Outcomes

The Steering Committee, in collaboration with CDFCP Participants and Supporters and Working Groups will work to produce the following outcomes:

1. *CDFCP Interim Budget:*
   Within three months, the Steering Committee will complete an interim budget to define the financial resources required to implement the interim work plan, establish and resource priority working groups and hire a Conservation Partnership Coordinator.
2. *CDFCP Interim Work Plan:*
   Within three months, the Steering Committee will complete an interim work plan to guide its work prior to the adoption of a CDFCP Conservation Plan/Strategy. This interim plan will include:
   - A communications statement indicating how the Conservation Partnership will communicate with funders, the public, Conservation Partners and other agencies in absence of a CDFCP Conservation Plan/Strategy. Communications may include website development, indications of support to partners requesting endorsement of CDFCP related projects and CDFAE information materials.
   - Information on immediate action items and responsibilities of the CDFCP Working Groups
3. *Establishment of CDFCP Working Groups:*
   Within 6 months, the Steering Committee will establish the membership of the CDFCP Working Groups. **Within one year**, the CDFCP Working Groups will create their own Terms of Reference which will include information about:
   - Goals and objectives
   - Member responsibilities
   - Meeting frequency and attendance
   - Decision making
   - Communication within the working group, with other working groups, outside agencies and with the Steering Committee

4. CDFCP Coordinator:

Within 6 months, the Steering Committee will create a job description and funding plan for a CDFCP Coordinator. **Within one year**, a Coordinator position will be funded and filled.

5. CDFCP Conservation Plan/Strategy:

Within one year, the Steering Committee will complete a CDFCP Conservation Plan/Strategy that includes:

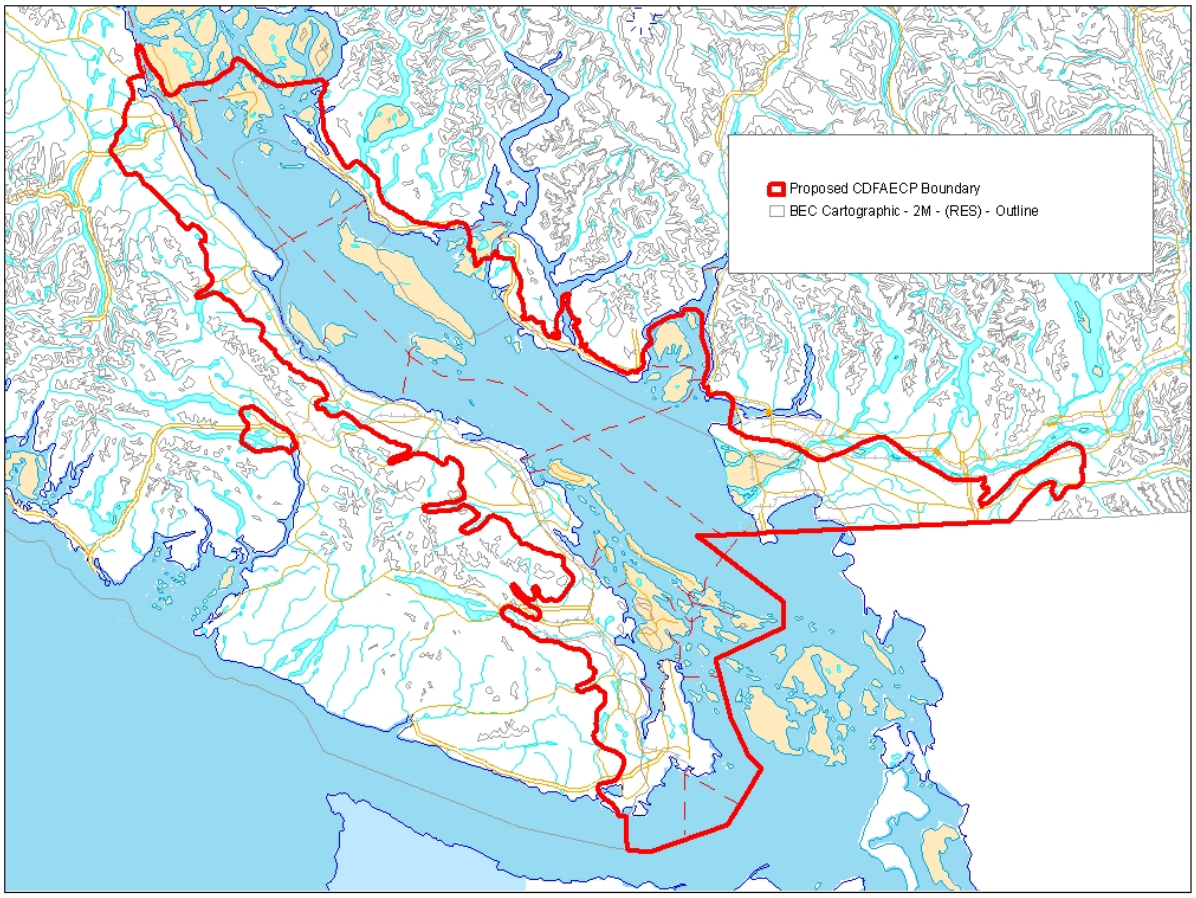
- A vision statement
- Conservation goals
- Measureable targets
- Assessment of threats
- Recommended actions and lead agencies for the actions
- Proposed budget and financing plan

The CDFCP Conservation Plan/Strategy will incorporate and recognize existing conservation plans and will not duplicate work that has already been done. CDFCP Participants and Supporters will be asked to provide input into the Plan/Strategy and endorse the CDFCP Conservation Plan/Strategy upon its completion.

6. Implementing the CDFCP Conservation Plan/Strategy:

By the spring of 2014, the Conservation Partnership will begin implementing the Conservation Plan/Strategy through the Steering Committee in collaboration with the Working Groups.

Appendix A
Coastal Douglas-fir and Associated Ecosystems Conservation Partnership Boundary



Please note: Except for the Howe Sound area the CDFAECP boundary follows the CWHxm1 Biogeoclimatic boundary (FLNRO, 2012).

Appendix B

Steering Committee Contact Information

6.1

Gulf Islands Alliance
P.O. Box 795 Ganges, BC V8K 2W3
www.gulfislandsalliance.ca info@gulfislandsalliance.ca

May 26, 2014

To Islands Trust Council

The Gulf Islands Alliance (GIA) believes that, long term, the greatest threat to the islands and achieving the Islands Trust mandate is climate change.

In a deputation to you last December GIA requested Trust Council to incorporate the Public Trust Doctrine into your Policy Statement to guide your climate change decisions. Chair Sheila Malcolmson replied, "Trust Council did not pass a motion in response... and we look forward to hearing more from you." This is GIA's answer to that invitation:

Every day there is more evidence that climate change is an unfolding tragedy on a scale unprecedented in human history. GIA believes the simple but comprehensive Public Trust Doctrine -- it enshrines a most fundamental human right -- provides the framework and motivation to seek and apply the best solutions to climate change. By adopting the doctrine Trust Council would acknowledge that

-- climate change represents a growing and significant threat to the Islands Trust mandate to preserve and protect our precious natural environment

-- all people have a right to clean air and water. They are essential to life and not commodities to be sold, used and abused by the highest bidders

-- all governments and individual legislators are trustees with a duty to protect and/or restore these life-sustaining necessities when they are damaged.

By embracing the Public Trust Doctrine, Islands Trust would put a pure democratic and inspired face on its climate-change action and advocacy work and advance its stature as a model of leadership and hope for all governments.

Since our first presentation to you when GIA outlined the court actions on behalf of children and future generations initiated in several US states, a new suit has been launched against six federal agencies with powers to regulate greenhouse gas emissions. It is before the US Court of Appeals for the D.C. Circuit. Proponents argue that continuing access to clean air and water is a basic human right, not subject to political discretion. Specific to the suit is the alleged failure of government to attempt to restore atmospheric carbon dioxide pollution to 350 parts per million, a recognized threshold to avoid catastrophe. This failure, particularly in resource-rich Canada, ironically speeds us faster to more severe encounters with climate consequences.

The Intergovernmental Panel on Climate Change this spring released the third of its three new reports that confirmed climate change is man-made; it already damages crops, spreads disease,

acidifies the oceans; it will one day cause wars and mass migrations; and the average amount of emissions is increasing 2.2 percent annually worldwide instead of decelerating by a needed pace of 6 percent.

Last month even the Toronto Dominion Bank, who owes much of its fortune to fossil fuel industry business, noted the accelerating incidence of climate-change-related events such as floods (in Calgary and Toronto), droughts, storm surges, wildfires, landslides, and wide temperature extremes. The bank "strongly advised government leaders and corporate decision-makers ... to start thinking of the long-term implications of inaction."

GIA urges you to adopt the Public Trust Doctrine as policy. Each of us, trustees and private citizens, must do everything we can to conquer and/or cope with the consequences of climate change. To give in to notions that the problem will never visit our islands, that it's too big, that it must be tackled only by others or that it doesn't require immediate action equal to its global importance is morally indefensible. In his brilliant new book, *Windfall*, about investors already profiting from climate change (such as by buying vast tracts of farmland to profit from expected climate-based food shortages and famine), McKenzie Funk says: "Climate change is often framed as a scientific or economic or environmental issue, not often enough as an issue of human justice."

Sincerely

David Steen
GIA Chair
250-246-3530
(website gulfislandsalliance.ca)

joining hands across the waters ...

Gulf Islands Alliance

P.O. Box 795 Ganges, BC V8K 2W3
www.gulfislandsalliance.ca info@gulfislandsalliance.ca

May 29, 2014

Islands Trust Council
(via e-mail)

Subject: Islands Trust Press Release (April 2, 2014)
http://www.islandstrust.bc.ca/media/263963/newsapr022014enforcement.pdf

Dear Trustees

Without second-guessing the wisdom of the decision of the Denman Island Local Trust Committee referred to in the press release issued by the Islands Trust and noted above, the Gulf Islands Alliance believes that the decision to abandon enforcement of *prima facie* violations in a 'marine conservation zone' raises important questions worthy of further exploration by Trust Council.

While we recognize that Islands Trust practice carefully distinguishes between 'local' and 'Trust-wide' matters and that decisions of Local Trust Committees, unless they involve court action, are normally beyond the purview of the Executive Committee, we feel there may be some value in reviewing the rigidity of this practice. It is our belief that there may be areas of jurisdiction where 'local' matters have sufficiently significant trust-wide implications to warrant creating a process to facilitate fuller participation by members of Trust Council prior to a decision by a Local Trust Committee.

Further, we believe that, 'for the purpose of carrying out the object of the trust', section 8 (2) (j)* of the Islands Trust Act gives Trust Council the authority to consider altering the duties and the composition of the Executive Committee. We therefore suggest that Trust Council; 1) consider, for the purpose of defining, 'those matters that have sufficiently significant trust-wide implications' and 2) explore ways in which such matters may be subjected to higher level of scrutiny than is currently the practice.

We would suggest that among 'those matters that have sufficiently significant trust-wide implications' consideration should be given to those involving 'marine conservation' as well as all those involving the body of water we have in common. A centralized approach to zoning the water that encompasses all the islands is, we believe, worthy of serious consideration. A system of referrals amongst Local Trust Committees may be an effective tool and/or perhaps some modification of the composition and duties of the Executive Committee could be explored by Trust Council. For example, an additional member of the Executive Committee to coordinate First Nations relations and marine matters seems worthy of examination.

We note that federations are complex and dynamic organizations whose survival and vigour is very much dependent on their ability to adapt to circumstances and situations unforeseen at the time of their creation and we hope you will respond to our suggestions with that in mind.

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*8 (2) For the purpose of carrying out the object of the trust, the trust council may.....(j) assign duties to the executive committee and to the local trust committees

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Yours truly,

Graham Brazier,
on behalf of
The Gulf Islands Alliance
(website gulfislandsalliance.ca)
(250) 335-1262
<gsbraz@telus.net>

Salt Spring Island Watershed Protection Authority
Trustee report to Trust Council: June 2014

SSIWPA has made excellent progress since Trust Council in March approved the SSI LTC's request to raise a tax requisition to fund the coordinated management efforts that SSIWPA was established to furnish.

SSIWPA has:

1. issued via Trust staff, a RFP for the contract coordinator for the period 2014 - 2015. The current coordinator, Dr Shannon Cowan, has been re-appointed. Further information here;

2. approved it's work plan for 2014 - 2015 which can be viewed here;

3. adopted it's budget for 2014 - 2015 which can be viewed here;

4. obtained a Real Estate Foundation of BC grant of $20,000 to support the multi stakeholder public engagement process. Further information is available here;

5. begun the process of seeking nominations from within the community to sit on its Public Advisory Committee (further information here);

6. approved a request from the TAC for an in-field study (see item 1 below and footnote);

7. rebuilt it's web site (ssiwatersheds.ca);

The Technical Advisory Committee, that SSIWPA assembled to undertake a review of the technical and scientific aspects of lake remediation and to peer review the studies undertaken to date has:

1. submitted a recommendation and request to conduct an in-field study which will collect and analyze empirical data about Phosphorus potentially moving into the lake from septic sources, as well as distribution of phosphorus within the lake over seasonal and spatial variability. An outline of the study is available here; [1]

2. scheduled a Public Information Meeting to update the community on their progress. The meeting is to take place in Salt Spring Island's public library at 1pm on June 25 2014;

3. continues its work on assessing internal phosphorous loading in the lake.

George Grams
Islands Trust Local Trustee
June 5, 2014

[1] Hitherto all studies undertaken on St Mary Lake were desk studies. Field measurements are essential to verify certain assumptions made in those desk studies.

HOWE SOUND REPORT

On May 2nd, 2014 the Howe Sound Community Forum(HSCF), 34 participants, including local government officials/ staff/community observers/ from 10 Howe Sound Communities, met at Gleneagles Golf Course in West Vancouver with three representatives from the Province to further explore the Cumulative Effects Assessment (CEA) as a tool for Howe Sound planning. This is the third event where staff from the Ministry of Forests Lands and Natural Resource Operations participated. Staff recently involved in marine planning on the north coast are now involved.
The Province will be providing factual information of what the Province can/can't do and offer proposed steps at the next Howe Sound Forum Friday Sept. 12, 2014. The HSCF will be asked whether it wants to proceed with the Cumulative Effects Assessment proposal presented by the Provincial Government. For more info please find the link to the full report below.
http://futureofhowesound.org/wp-content/uploads/2014/05/Forum-Values-Workshop-Report-May-2_2014-Final3.pdf

On 12 April the Squamish First Nations opened the Howe Sound Aquatic Forum at Furry Creek, with over 80 people and many organizations in attendance. They discussed the most pressing issues facing Howe Sound and its marine/freshwater environment while exploring possible actions steps to address issues. Organizations such as: Squamish River Watershed Society, Living Oceans Society, SFU-School of Resource and Environmental Management, BC Spaces for Nature, David Suzuki Foundation, Underwater Council of BC/Marine Life Sanctuaries and Vancouver Aquarium attended. Please see link below for full report and list of all participants.

http://futureofhowesound.org/wp-content/uploads/2014/05/Aquatic-Forum-Summary-Comm-Forum-May02-2014.pdf

Jan Hagedorn
Gambier Island Trustee

2014 Islands Trust Council
Priorities Chart

May 29/14

Islands Trust Council Goals	**Executive Committee** (LA)	**Trust Fund Board** (JE)
Ecosystem Preservation and Protection… Stewardship of Island Resources... Sustain Island Character and Healthy Communities	1. Governance, Policy, Strategic Planning, Trust Council (LA) 2. Communications, Advocacy, Policy Statement, Interagency and Public Relations (LG) 3. Organizational Improvements (DM/CS/CT)	1. Strategic Planning/Administration 2. Covenant and Property Acquisitions 3. Property and Covenant Management 4. Communications 5. Fundraising and Conservancy Support
Financial Planning Committee (CS)	**Local Planning Committee** (DM)	**Trust Programs Committee** (LG)
1. First Draft of the 2015/16 Budget 2. Complete the 2013/14 Year-End and Audit 3. Budget Process Policy 6.3.1 4. Trustee Travel and Procedures	1. Renewable Energy Technologies in the Trust Area 2. Green Shores for Homes 3. Local Planning Committee Policy Review	1. Community Stewardship Awards 2. BC Ferries Advocacy Program 3. Legislative Monitoring
Southern Team (RK) Galiano, Mayne, N. Pender, S Pender, Saturna	**Northern Team** (CS) EC as LTC (**Ballenas-Winchelsea**), Denman, Gabriola, Gambier, Hornby, Lasqueti and Thetis	**Salt Spring Team** (LH) Salt Spring
LTC Planning Priorities • ***Galiano*** *- LUB updates (KN); Visitor Accommodation Review (KN); and Ground Water protection DPA review (KN).* • ***Mayne*** *– Housing options (GR); LUB/OCP amendments (GR/KF); Riparian Area Regulation Implementation (GR)* • ***North Pender*** *– Shoreline Review (RK); Conservation Subdivision Review (JS); Age and disability friendly communities (JS)* • ***Saturna*** *– STVR Review (GR); Secondary Suite Review (GR); and OCP Density Review (GR).* • ***South Pender*** *- LUB Update and Review (RK); Canal erosion and boat speed.*	LTC Planning Priorities • ***EC as LTC (Ballenas-Winchelsea)*** *(SZ)**:** Development of OCP and LUB; Meeting Procedures Bylaws; Administrative Bylaws.* • ***Denman*** *(RM): Review of policies and regulations re impacts of shellfish farming; Review of housing policies for secondary cottages and suites; RAR implementation.* • ***Gabriola****: Gabriola OCP Review(CS & SZ); DAI Bylaw (SZ); Snuneymuxw FN Protocol Agreement Implementation (CS)* • ***Gambier*** *(AB): Foreshore protection/stewardship; OCP advocacy implementation & support; Sustainability Guide; RAR implementation* • ***Hornby*** *(RM): OCP and LUB Review; RAR implementation.* • ***Lasqueti*** *(LP): RAR implementation; Parking as home enterprise LUB amendment; OCP update re intertidal zone.* • ***Thetis*** *(AB): Associated Islands OCP and LUB Creation; Shoreline Protection; RAR implementation.*	LTC Planning Priorities • *OCP Review - RAR Mapping & Implementation (SC)* • *Secondary Suites Implementation Program (KA)* • *OCP Review: Watershed Management (LH)* • *Land Use Bylaw Update: Industrial (SC)* • *Ganges Village Area Planning (LH)*

Planning Priorities – taken from top priorities established by each local trust committee. LA – Linda Adams; LG – Lisa Gordon; DM – David Marlor; CS –Cindy Shelest; JE – Jennifer Eliason
Southern Team: RK – Robert Kojima; GR – Gary Richardson; JS – Justine Starke; KN – Kris Nichols
Northern Team : CS – Courtney Simpson; LP – Linda Prowse; SZ – Sonja Zupanec; Rob Milne (RM); Aleksandra Brzozowski (AB)
Salt Spring Team: LH – Leah Hartley; SC – Stephan Cermak; KA – Kristin Aasen

DRAFT

September 2014 Islands Trust Council Agenda Program

Location: Keats/Gambier Islands

June 4/14

	TUESDAY, SEPTEMBER 9 KEATS	WEDNESDAY, SEPTEMBER 10 GAMBIER	THURSDAY, SEPTEMBER 11 KEATS
Morning		7:30 – 8:15 Breakfast 8:30 – 8:45 Water Taxi to Gambier 9:15 – 10:00 **Decision and Information Items** 10:00 – 10:30 Break 10:30 – 12:30 **Closed Meeting**** • Provincial Assessment of Impact on Islands Trust re potential SSI Incorporation	7:30 – 8:20 Breakfast 8:30 – 9:15 ****Closed Meeting**** • CAO Update • Litigation Update 9:15 – 10:15 **Election Season Best Practices** 10:15 – 10:45 Break 10:45 – 12:15 **Advice to Incoming Council** • *Trustee Roundtable*
Afternoon	12:15 – 1:00 Lunch 1:00 – 1:05 **Call to Order and Notice of New Business Items** 1:05 – 2:30 **Decision and Information Items** 2:30 – 3:00 Break 3:00 – 5:00 **2011-2014 Term Review** • Committee Highlights • Strategic Plan • Trustee Roundtable	12:30 – 1:15 Lunch 1:15 – 2:15 **Delegations and Town Hall** 2:15 – 3:00 **Decision and Information Items** 3:00 – 3:30 Break 3:30 – 4:45 **Decision and Information Items** 5:00 Water Taxi to Keats	12:15 Meeting Adjourned (approx.)
	Dinner	Dinner	

Members of the public are invited to attend all sessions except any Closed portion (**) of the meeting and meals